

**In The Matter Of:**

*Haydn Zeis, Administrator of the Estate of Jordn Miller v.  
Springfield Township, Ohio, et al.*

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*Sergeant Tera Denise Moore  
March 20, 2017*

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<p>1 IN THE UNITED STATES DISTRICT COURT 2 NORTHERN DISTRICT OF OHIO 3 EASTERN DIVISION</p> <p>4 Haydn Zeis, Administrator of 5 the Estate of Jordn Miller, 6 Plaintiff, 7 vs. 8 Case No. 5:16-CV-02331-JRA 9 Springfield Township, Ohio, 10 et al., 11 Defendants 12 13 VIDEO DEPOSITION OF SERGEANT TERA DENISE MOORE 14 the Defendant herein, called by the Plaintiff 15 under the applicable Rules of Civil Procedure, 16 taken before me, Whitney Layne, a Notary Public 17 for the State of Ohio, at the Springfield Township 18 Police Department, 2465 Canfield Road, Akron, Ohio 19 44312 on March 20, 2017 at 1:00 p.m. 20 21 22 LAYNE &amp; ASSOCIATES 23 6723 COOPERSTONE DRIVE 24 DUBLIN, OHIO 43017</p>	<p>1 March 20, 2017 2 Monday Session 3 1:00 p.m. 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24</p> <p>STIPULATIONS</p> <p>It is stipulated by and among counsel for the respective parties that the deposition of TERA DENISE MOORE, the Defendant herein, called by the Plaintiff under the applicable Rules of Civil Procedure, may be taken at this time by the notary Whitney Layne; that said deposition may be reduced to writing in stenotypy by the notary, whose notes thereafter may be transcribed out of the presence of the witness; and that the proof of the official character and qualification of the notary is waived.</p>
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<p>1 APPEARANCES 2 3 MICHAEL HILL, ESQUIRE 4 EADIE HILL TRIAL LAWYERS 5 3100 East 45th Street 6 Suite 218 7 Cleveland, Ohio 44127 8 on behalf of the Plaintiff 9 10 MEL LUTE, ESQUIRE 11 BAKER DUBLIKAR BECK WILEY &amp; MATHEWS 12 400 South Main Street 13 North Canton, Ohio 44720 14 on behalf of the Defendants 15 16 17 18 19 20 21 22 23 24</p>	<p>1 EXAMINATION INDEX 2 3 TERA DENISE MOORE 4 BY MR. HILL . . . . . Page 5 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24</p>

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<p style="text-align: right;">Page 5</p> <p>1 TERA DENISE MOORE, 2 Being first duly sworn, as hereinafter 3 certified, deposes and says as follows: 4 EXAMINATION 5 BY MR. HILL: 6 Q Could you please state your full name 7 for the record? 8 A Sergeant Tera Denise Moore. 9 Q And in going through some documents I 10 saw, was your last name formerly Johnston? 11 A It was Johnston Baugh. I had it legally 12 changed. 13 Q And how do you spell your former name? 14 A My former name? 15 Q Yes. 16 A J-O-H-N-S-T-O-N B-A-U-G-H. 17 Q I just wanted to make sure going through 18 your personnel file that was you. 19 A Right, that's me. 20 Q And you go by Denise? 21 A Yes. 22 Q Today for your deposition, do you want 23 me to call you Denise or Sergeant Moore? 24 A Denise is fine.</p>	<p style="text-align: right;">Page 7</p> <p>1 a series of questions. It's your job to answer 2 truthfully. That's it, okay? 3 A Uh-huh. 4 Q If you don't understand one of my 5 questions today, it's probably my fault, okay? 6 So just speak up, and say, "Michael, I 7 don't understand the question." I'm happy to 8 rephrase it, all right? 9 A Yes. 10 Q If you need a break for any reason, you 11 don't need to tell me why. Just ask for a break, 12 and we'll accommodate you, okay? 13 A Okay. 14 Q And I say that, because it might be a 15 little bit of a lengthy exercise because this is 16 my only time to ask you questions before trial. 17 A Uh-huh. 18 Q Please, do me a favor -- really, the 19 court reporter a favor -- and wait until I'm done 20 asking the question before you start to answer. 21 And I'll do the same and wait until you're done 22 answering before I ask you a question, okay? 23 A Uh-huh. 24 Q The reason is because you and I will</p>
<p style="text-align: right;">Page 6</p> <p>1 Q Denise? Okay, great. 2 Denise, you understand that I'm here to 3 take your deposition today? 4 A Yep. 5 Q I know we've been kind of trying to get 6 this scheduled. You've been hanging out for about 7 a week or so, so I appreciate your patience. 8 Okay? 9 A Okay. 10 Q And we've had a chance to kind of, I 11 guess, talk a little bit off the record with your 12 attorneys present. But just so it's formal, my 13 name is Michael Hill. And you understand I 14 represent the Estate of Jordn Miller in this 15 lawsuit? 16 A Yes. 17 Q And the Springfield Township, as well as 18 yourself, have been named in a lawsuit brought by 19 the estate. Do you understand that? 20 A Yes. 21 Q Have you ever given a deposition before? 22 A No. 23 Q Well, today is going to be a 24 question-and-answer session. I'm going to ask you</p>	<p style="text-align: right;">Page 8</p> <p>1 understand each other. The court reporter is 2 going to have some difficulty typing both people 3 at the same time if we talk over each other. All 4 right? 5 A I understand. 6 Q The other thing is, because we are going 7 to try to get a - we have got the video, which 8 helps, but we're also going to try to get a 9 written record today. So try to answer out loud 10 with yeses or nos. 11 Naturally, you're going to say uh-huh 12 and huh-uh sometimes. Try to say yes or no, okay? 13 A Okay. 14 Q If you say uh-huh or huh-uh, it's not a 15 big deal, but I'm going to look at you and say, 16 "Is that a yes, or is that a no"? It's not meant 17 to be rude. It's just so six months down the 18 road, when we look at this, we're not confused by 19 what you were saying, okay? 20 A I understand. 21 Q If at any time today, up until the very 22 last question, you know, you want to go back and 23 talk about something we discussed earlier, you're 24 free to do that, okay?</p>

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1 A Okay.  
2 Q So if we're on topic A and now we're on  
3 topic R, you can just speak up and say, "Michael,  
4 I remembered something we were talking about  
5 earlier. Can we go back and talk about that?"  
6 Happy to do so, okay?  
7 A Okay.  
8 Q And you were just sworn in by the court  
9 reporter, so you understand you're under oath?  
10 A Yes.  
11 Q Your testimony today is the same as if  
12 you're in front of a judge or jury?  
13 A Yes.  
14 Q You understand that I'm going to be  
15 relying on the answers you give today to prepare  
16 this case for trial?  
17 A Yes.  
18 Q And you understand this is my only  
19 opportunity to speak with you before trial?  
20 A Yes.  
21 Q Prior to your deposition, what have you  
22 done to prepare for this deposition?  
23 And I don't want to know, you know, the  
24 contents of any conversations you had with your

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1 attorneys, okay?  
2 A Okay. I read my invest notes and the  
3 incident report.  
4 Q When you say the invest notes, we've got  
5 -- I think maybe it's in front of you in this  
6 collection of documents somewhere. It's marked as  
7 Exhibit 12. I think what you have in front of  
8 you, that you're looking through right now, is  
9 actually one of the detective's notes.  
10 A Right.  
11 Q All the exhibits are in this pile right  
12 here. And it should be Exhibit 12, I believe?  
13 A They're in order, then?  
14 Q Yeah.  
15 A Okay.  
16 Q You said invest note. Is that what  
17 you're referring to?  
18 A Investigative notes.  
19 Q And you, along with your two colleagues,  
20 Officer Holsopple and Officer Scherer, created  
21 that document; is that correct?  
22 A Yes.  
23 Q And when is the last time you reviewed  
24 that document?

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1 A This morning.  
2 Q Do you have a copy of that yourself?  
3 A Yes.  
4 Q Is that -- how long have you had a copy  
5 of that document?  
6 A Since last week.  
7 Q Have you made any notes on that  
8 document?  
9 A Not that I'm aware of.  
10 Q I mean, have you written anything on it  
11 as you're looking at it?  
12 A No.  
13 Q And that is your statement, Exhibit 12;  
14 correct?  
15 A Yes.  
16 Q That's your statement of the events that  
17 took place on September 8th, 2015, involving Jordn  
18 Miller?  
19 A Mine, as well as Officer Scherer and  
20 Officer Holsopple, yes.  
21 Q And before signing that document, you  
22 agreed to the words included in that document;  
23 correct?  
24 A Yes.

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1 Q And before you signed it, you agreed  
2 that the entire document was accurate; is that  
3 fair?  
4 A Yes.  
5 Q And you adopt Exhibit 12 as your  
6 statement of the events; is that fair?  
7 A Yes.  
8 MR. LUTE: Objection.  
9 Go ahead.  
10 BY MR. HILL:  
11 Q You also said that you looked at an  
12 incident report; is that correct?  
13 A Yes.  
14 Q Let's see if I have this here. There  
15 should be an incident report in front of you. I  
16 believe it's marked as Exhibit 9.  
17 A Okay.  
18 Q Do you have Exhibit 9 in front of you?  
19 A Yes.  
20 Q Is that the incident report you were  
21 referring to?  
22 A Yes.  
23 Q And did you create that incident report  
24 along with Officer Holsopple?



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<p style="text-align: right;">Page 13</p> <p>1 A Officer Holsopple wrote the incident 2 report. I approved the incident report. 3 Q And when you say that you approved the 4 incident report, just very quickly, if you could 5 tell me, what's the process for you receiving an 6 incident report like Exhibit 9 and approving of 7 it. 8 A They fill out the incident report and 9 give it to me because I'm their sergeant. I look 10 it over and make sure there's no clerical errors. 11 Q Is that -- I don't say this like in a 12 snarky way, but in terms of you as the sergeant 13 looking at the incident report and approving it, 14 is that kind of what you're looking for, is it 15 filled out correctly? 16 A Yes. 17 Q There's no obvious typos or clerical 18 errors? 19 A Yes, for the most part. 20 Q Like the document, where it says 21 "victim," it's properly linked between victim and 22 offense, things like that? 23 A Yes. 24 Q Is that because the reporting officer</p>	<p style="text-align: right;">Page 15</p> <p>1 BY MR. HILL: 2 Q Sure. There's a couple of -- four 3 offenses that are listed on Exhibit 9; correct? 4 A Right. 5 Q Did Officer Holsopple select the 6 offenses to be included on that document? 7 A Well, at the time I would assume -- 8 these are the offenses that occurred that day, so 9 yes, I approved the report as it was written. 10 Q All I'm asking is: Whose role was what 11 on the incident report? 12 A I think as police officers, we all know 13 what offenses were committed that day. It 14 wasn't -- any police officer would agree with the 15 offenses, so -- 16 Q We'll come back to that, then. 17 Other than your attorney, did you 18 discuss your deposition with anyone? 19 A No. 20 Q Other than exhibits 9 and 12, did you 21 review anything in preparing for your deposition 22 today? 23 A Yes. 24 Q What?</p>
<p style="text-align: right;">Page 14</p> <p>1 oftentimes has more information about the events 2 themselves that are being reported than you do as 3 their supervisor? 4 A Not necessarily. 5 Q Okay. In terms of Exhibit 9, was your 6 role limited to approving the document? 7 MR. LUTE: Objection. 8 You may answer. 9 A No. 10 BY MR. HILL: 11 Q Did you type any of the information on 12 Exhibit 9? 13 A Not that I'm aware of. 14 Q Were you present with Officer Holsopple 15 when he was creating the document? 16 A I may have been in the room, but I 17 didn't have any action as far as assisting him 18 write the document, to my knowledge. 19 Q I mean, with respect to the offenses or 20 charges that are listed, did Officer Holsopple 21 select those? 22 MR. LUTE: Objection. 23 You may answer. 24 A Repeat the question again?</p>	<p style="text-align: right;">Page 16</p> <p>1 A I did review the body camera video from 2 Detective Lombardi. 3 Q And that would have been body camera 4 video that was recorded on September 9th, 2015? 5 A I don't know what date that it was, that 6 he recorded that on body camera. 7 Q When did you review that? 8 A Last week prior -- when I was supposed 9 to have my original deposition. And actually, it 10 only started playing because I was trying to find 11 the DVD for the dispatch audio from that day. 12 Q Had you reviewed that body camera 13 interview at any time before last week? 14 A No. 15 Q The body camera interview -- and I just 16 had the opportunity to speak with Detective 17 Lombardi, and he testified that that interview on 18 the body -- all of the body camera interviews were 19 done on September 9th, 2015, okay? 20 A Okay. 21 Q So with respect to the body camera 22 interview on September 9th, 2015, that's not 23 something that you would have had available prior 24 to your interaction with Jordn Miller; fair?</p>

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1 A I wouldn't have had the body camera  
2 interview?  
3 Q Correct.  
4 A No.  
5 Q The information on the body camera  
6 interview or what's being stated by those  
7 witnesses wasn't one of the factors that you were  
8 relying on in using force in this case; correct?  
9 A No. Yeah. No, not at all.  
10 Q Anything else that you reviewed in  
11 preparing for your deposition?  
12 A Not that I'm aware of.  
13 Q Your colleagues were deposed in this  
14 case last week. Did you speak with them at all  
15 about their depositions?  
16 A No. "How long were you in there,"  
17 maybe, because I was trying to figure out when I  
18 was going to get in.  
19 Q I understand. But in terms of substance  
20 of the depositions, did you discuss anything with  
21 them?  
22 A No substance.  
23 Q Chief Smith the other day stated that he  
24 believed you went through some CIT or crisis

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1 intervention training. Is that true?  
2 A Yes.  
3 Q When did you undergo CIT training?  
4 MR. LUTE: Objection. I want to make  
5 sure we're using the proper -- you might want to  
6 ask her what CIT means to her as opposed to that  
7 terminology.  
8 BY MR. HILL:  
9 Q Did you undergo crisis intervention  
10 training?  
11 A Yes.  
12 Q When?  
13 A I have no idea. You would have to look  
14 at my training file.  
15 Q Where did you undergo crisis  
16 intervention training?  
17 A I believe it was the Akron Police  
18 Department.  
19 Q Do you remember how long that training  
20 was?  
21 A No.  
22 Q Did you receive any documents as part of  
23 that training? Not a certificate of going through  
24 it, but any kind of materials, PowerPoints,

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1 printouts, anything?  
2 A I would never remember that.  
3 Q Do you remember how long this training  
4 was, this crisis intervention training?  
5 A To my knowledge, it was probably several  
6 days. But again, it's been a long time.  
7 Q So as you sit here, do you know how long  
8 it was?  
9 A No.  
10 Q Do you know who the instructor for this  
11 crisis intervention training was?  
12 A Not the instructor.  
13 Q Did any of your colleagues here at  
14 Springfield Township undergo that training with  
15 you?  
16 A I don't remember.  
17 Q Do you remember any of the topics or  
18 subjects that were discussed during this crisis  
19 intervention training?  
20 A It was in dealing with crisis situations  
21 with the mentally ill, topics involving that.  
22 Q Do you remember anything that you were  
23 taught about handling or dealing with the mentally  
24 ill in a crisis situation?

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1 A Yes.  
2 Q What do you remember?  
3 MR. LUTE: Objection.  
4 Go ahead.  
5 A Basically, it's how you approach the  
6 mentally ill, or if you believe it's somebody  
7 that's mentally ill, and try and negotiate with  
8 them to settle them down, different behaviors that  
9 they exhibit, and how to recognize that.  
10 BY MR. HILL:  
11 Q The first thing you mentioned was how to  
12 approach people in a mental health crisis; is that  
13 fair?  
14 A Yes.  
15 Q What were you taught or what did you  
16 learn during this crisis intervention training  
17 about how to approach a member of the public in a  
18 mental health crisis?  
19 A I think it's important to understand,  
20 too, it's been such a long time since I went to  
21 CIT training. I also have a bachelor's degree in  
22 psychology. So I don't remember if it was from  
23 the CIT training or my psychology degree -- I have  
24 an associate's in psychology -- from where I know

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<p style="text-align: right;">Page 21</p> <p>1 information about the mentally ill. But I have 2 been dealing with the mentally ill for years, and 3 I was a hostage negotiator. 4 So when they portray the signs of 5 psychosis, you try to -- first, you can try to 6 assist them in saving face so that they come out 7 or settle down or give them some kind of reason to 8 settle down. 9 You call the ambulance. You try to get 10 them evaluated. 11 There's a lot of things that go into 12 being mentally ill and how to try to deal with 13 them. But everybody is different, every 14 situation. 15 Q So you said whenever there are signs of 16 psychosis. 17 When you say "signs of psychosis," as an 18 attorney, not somebody with a psychology 19 background, what are you referring to? 20 A Well, there's any number of mentally ill 21 illnesses you can have, whether it's psychosis or 22 bipolar disorder or depression or a mania or 23 schizophrenia. There's many. And I am not a 24 doctor, so I can't diagnose. You can only do the</p>	<p style="text-align: right;">Page 23</p> <p>1 crisis or if the person could be on drugs. You 2 never know, and you try to do the best that you 3 can. 4 Q When you said -- you gave me some 5 options for a police officer in dealing with a 6 person who has signs of a mental health crisis. 7 And one of those was -- I think you said save 8 face? 9 A Uh-huh. 10 Q Approach them in a way that they can 11 save face? 12 A Uh-huh. 13 Q What did you mean by that? 14 A If they've already exhibited signs of 15 being aggressive with us in front of their 16 family -- and we might have the family leave the 17 house or leave the room so that he can cooperate 18 with us and save face in front of his family 19 because he wanted to be the tough guy, maybe, and 20 had to continue that behavior until they weren't 21 around to not see it. 22 Q So it sounds like one of the things that 23 you're trying to do as a police officer in this 24 circumstance is understand a little bit of the</p>
<p style="text-align: right;">Page 22</p> <p>1 best you can do in a situation. 2 Q I understand that. But when you're 3 saying "signs of psychosis," I took that to mean 4 that as a police officer responding to a potential 5 mental health crisis one thing you have got to 6 look for are signs of psychosis; is that fair? 7 MR. LUTE: Objection. 8 Go ahead. 9 A Signs of being mentally ill, so yes. 10 BY MR. HILL: 11 Q And "psychosis" may be a medical term. 12 But what you're looking for as a police officer, 13 are there signs that this is in fact a mental 14 health crisis; is that fair? 15 A Yes. 16 Q And whether or not the person is 17 actually acutely psychotic or has some other 18 mental illness, is that -- that's not really your 19 role as a police officer? 20 A Correct. 21 Q Your role as a police officer is to 22 identify is this in fact or does this appear to be 23 a mental health crisis? 24 A We do try to see if it's a mental health</p>	<p style="text-align: right;">Page 24</p> <p>1 motivation behind the behavior? 2 A Yes. 3 Q And that's what you mean by saving face, 4 perhaps this person, if we change their 5 environment, slightly, it's likely they may act 6 differently? 7 A Among other things, yeah. 8 Q One of the other things you said is give 9 them a reason to settle down; correct? 10 A Yes, try to. 11 Q And when you say as a police officer try 12 to give the person in a mental health crisis a 13 reason to settle down, what do you mean? 14 A If they're upset because their 15 girlfriend broke up with them, maybe they're 16 depressed or anxious, so we try to talk it out 17 with them; you know, there's other people out 18 there and she's not the one for you. You know, 19 there's things that we can talk about once you 20 cooperate with us, and we'll help you the best 21 that we can, and what is it that you need from us, 22 those kinds of things, just to try to help get 23 them to cooperate with us. 24 Q So that's another option that police</p>

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<p>1 officers have when confronting a person with a 2 mental health crisis; fair? 3 A Yes. 4 Q You also brought up contacting an 5 ambulance; correct? 6 A In some circumstances. 7 Q Tell me what -- in what circumstances, 8 to your understanding, or you've been taught to 9 contact an ambulance when responding to a mental 10 health crisis. 11 A Well, a mental health crisis, our fire 12 department does not always and usually doesn't 13 transport for us in a mental health evaluation 14 crisis. 15 For the most part, we have to put them 16 in handcuffs and take them to City Hospital just 17 because -- ourselves, because they wouldn't take 18 them unless they were handcuffed behind their 19 back. Our fire department doesn't like to 20 transport. 21 Q So is that the policy -- well, tell me. 22 You brought up calling an ambulance. 23 So what were you referring to when you 24 said one of the options is to call an ambulance?</p>	<p>1 call the ambulance. If there is -- if they took 2 too many of their antidepressant pills or if they 3 have taken pills that don't belong to them, then 4 of course if they're in a mental health crisis we 5 would call the ambulance for that, because that's 6 medically necessary. 7 BY MR. HILL: 8 Q Well, I asked about contacting -- you 9 brought up contacting an ambulance in response to 10 a mental health crisis. Then you said the only 11 time, according to your policy directive, is when 12 it's a situation of excited delirium; correct? 13 A I said the excited delirium policy 14 requires us to call the ambulance, have them 15 stage, and that is a must. That, if I'm on my way 16 to a call, I already suspect that. If I know who 17 the person is, and if they do drugs, then I would 18 have reason to believe that. A lot of times you 19 don't know that. Most of the time, you don't. 20 Q So I just want to understand. We'll get 21 into excited delirium, but I want to understand. 22 In terms of responding to a mental 23 health crisis, have you ever been taught or told 24 by anyone here at Springfield Township not to call</p>
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<p>1 A The only time that I have to call an 2 ambulance is if I suspect highly that somebody is 3 under excited delirium. 4 Q And you said that's the only time you 5 have to? 6 A Uh-huh. 7 Q Yes? 8 A Yes. Sorry. 9 Q When you say "the only time you have 10 to," according to whom? What do you mean the only 11 time you have to? 12 A According to policy directive of the 13 Springfield Police Department. 14 Q So according to the policy here at 15 Springfield Township, you as a police officer are 16 not required to contact emergency medical 17 professionals for anything other than excited 18 delirium -- 19 MR. LUTE: Objection. 20 BY MR. HILL: 21 Q -- in a mental health situation? 22 MR. LUTE: Objection. 23 You may answer. 24 A No. There's many reasons we have to</p>	<p>1 an ambulance in circumstances other than when a 2 person has taken too many medications or excited 3 delirium? 4 MR. LUTE: Objection. 5 You may answer if you know. 6 A It's under the discretion of the 7 supervisor, the way that the call is put out, the 8 details that were given. There's never a definite 9 answer for that question. 10 BY MR. HILL: 11 Q So there's nothing here in terms of 12 training at Springfield Township to give you a 13 clear directive as to when to contact EMS for 14 signs and symptoms of mental illness, not other 15 than excited delirium? Do you understand the 16 question? 17 MR. LUTE: Objection. 18 You may answer if you know. 19 A I believe the excited delirium directive 20 does say mental illness. But a doctor didn't 21 write that directive. We can only go by what it 22 says. 23 BY MR. HILL: 24 Q I'm asking how you've been trained.</p>



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<p>1 A There's a directive --</p> <p>2 MR. LUTE: Wait, wait. Wait for the</p> <p>3 question.</p> <p>4 Go ahead.</p> <p>5 BY MR. HILL:</p> <p>6 Q I'm asking how you've been trained.</p> <p>7 Other than the excited delirium directive --</p> <p>8 A Other than the excited delirium</p> <p>9 directive.</p> <p>10 Q -- have you received any training as to</p> <p>11 when to contact emergency medical professionals or</p> <p>12 EMS for a mental health crisis?</p> <p>13 MR. LUTE: Objection.</p> <p>14 Go ahead.</p> <p>15 A Over the years, we've had meetings with</p> <p>16 the fire department and discussed things. I</p> <p>17 couldn't give you the dates or times of those.</p> <p>18 But it would be in situations where you would want</p> <p>19 the squad there, like I said before, with</p> <p>20 medications and such, and the injuries.</p> <p>21 BY MR. HILL:</p> <p>22 Q The medications, though, that's not</p> <p>23 specific to mental illness in any way; is it?</p> <p>24 A Not necessarily.</p>	<p>1 Q Are you aware, as you sit here, of any</p> <p>2 training that you've received from Springfield</p> <p>3 Township about responding to a mental health</p> <p>4 crisis and contacting an ambulance outside of the</p> <p>5 excited delirium directive?</p> <p>6 A Yes. Like I said, the fire department</p> <p>7 training.</p> <p>8 Q When was the fire department training?</p> <p>9 A First aid, CPR training we've had.</p> <p>10 Q When was the fire department training on</p> <p>11 mental illness?</p> <p>12 A Remember --</p> <p>13 MR. LUTE: Objection.</p> <p>14 Go ahead.</p> <p>15 A Remember, I just told you, I don't</p> <p>16 remember the dates and times.</p> <p>17 BY MR. HILL:</p> <p>18 Q Can you give me a year?</p> <p>19 A No.</p> <p>20 Q Can you give me a decade?</p> <p>21 A I've been a cop for almost 23 years, so</p> <p>22 there's been several times. There's no way to</p> <p>23 give you an idea. You would have to look that up</p> <p>24 in the training.</p>
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<p>1 Q Any person who has taken too many of</p> <p>2 their medication may need EMS; correct?</p> <p>3 A Yes.</p> <p>4 Q In terms of other injuries a person</p> <p>5 might have, bleeding or something else, you</p> <p>6 contact EMS regardless of whether they were</p> <p>7 mentally ill; correct?</p> <p>8 A Yes.</p> <p>9 Q But in terms of contacting EMS for a</p> <p>10 mental health crisis, have you received any</p> <p>11 training outside of the excited delirium</p> <p>12 directive?</p> <p>13 MR. LUTE: Objection.</p> <p>14 Go ahead.</p> <p>15 A We may have brought it up with the fire</p> <p>16 department.</p> <p>17 BY MR. HILL:</p> <p>18 Q So when you --</p> <p>19 A As far as a policy, I would have to look</p> <p>20 it over, if you have one.</p> <p>21 Q I don't.</p> <p>22 A Okay.</p> <p>23 Q Are you aware of one?</p> <p>24 A Not that I know of.</p>	<p>1 Q I have. I haven't been able to find it.</p> <p>2 A The fire department might have</p> <p>3 something.</p> <p>4 Q Okay. Where was the training provided?</p> <p>5 What building?</p> <p>6 A This building down at the fire</p> <p>7 department.</p> <p>8 Q And you don't know who gave the</p> <p>9 training?</p> <p>10 A The fire department.</p> <p>11 Q But who at the fire department?</p> <p>12 A It's been several people over the years.</p> <p>13 Q Name them.</p> <p>14 A I can't tell you the names of the</p> <p>15 firemen right now when I see them. They just show</p> <p>16 up. They don't wear name tags, that I know of.</p> <p>17 Q Did they give you any documents?</p> <p>18 A Yes, there were documents over the</p> <p>19 years. I wouldn't have them now.</p> <p>20 Q What would you have done with them?</p> <p>21 A What would I have done with them?</p> <p>22 Q What did you do with them?</p> <p>23 A I would have reviewed them, like we're</p> <p>24 supposed to review them, and it would have been my</p>

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<p style="text-align: right;">Page 33</p> <p>1 knowledge then and I would have disposed of them. 2 Q So in terms of responding to a mental 3 health crisis and summoning an ambulance, do you 4 remember what your training was? 5 A At the fire department, you're talking 6 about now? 7 Q Any training you received here at 8 Springfield Township, whether by the fire 9 department or the police department. 10 A Well, we have excited delirium training 11 that's every year with the Taser training. We 12 have talked about mental illness excited delirium 13 at the fire department, when the fire department 14 has put on training. 15 Q I know. I'm asking you. You're talking 16 about the training. I'm asking you what training 17 did they provide about responding to a mental 18 health crisis? 19 MR. LUTE: Objection. 20 Go ahead. 21 A They provided training about the 22 circumstances and examples of when you would call 23 a squad in a possible mental illness crisis. 24 BY MR. HILL:</p>	<p style="text-align: right;">Page 35</p> <p>1 you sit here? 2 A Every call that you go to, I can tell 3 you, is different. If they put out a call that 4 somebody possibly even was -- maybe somebody 5 drugged up somebody, then we would call them. 6 Could it be mental illness? They could both be 7 mentally ill. You never know. It depends on how 8 the call comes out. 9 If the dispatchers give me information 10 and I may think that they have a mental illness or 11 that they were drugged by somebody, I would call 12 an ambulance then. 13 It would have to be a medical emergency, 14 not just a mental illness crisis. 15 As a matter of fact, the fire department 16 doesn't even come onto the scene if we don't have 17 it under control yet. 18 Q When you said it would have to be a 19 medical emergency, not just a mental health 20 crisis -- that's what you said; correct? 21 A One of the reasons, yes. I've talked to 22 the fire department about this millions of times, 23 trying to get them to respond to all mental health 24 crises.</p>
<p style="text-align: right;">Page 34</p> <p>1 Q Okay. 2 A That's my answer. 3 Q So what were the examples when you 4 would? 5 A I told you earlier. I can repeat them, 6 if you'd like. 7 Q I believe you said medication overdose? 8 A Not necessarily overdose. Medication, 9 too much. Medication that's not theirs. Any 10 injuries they may have. 11 Q When you say "injuries," are you 12 referring to physical injuries? 13 A Yeah. You said that, even, if they're 14 bleeding or cut. 15 Q Anything else? Any other examples? 16 A There's probably more examples, but 17 right now that's all I have got for you. 18 Q What would you need to review to 19 identify additional examples that you were 20 provided? 21 A If you want to give me time, I can 22 probably write down a whole page full. 23 Q Well, I just want to know how you were 24 trained. Can you remember any other examples as</p>	<p style="text-align: right;">Page 36</p> <p>1 Q You've tried to? 2 A Uh-huh. 3 Q So have you gone to the department here 4 and said, "We need a policy where the fire 5 department needs to respond to all mental health 6 crises"? 7 A No. 8 MR. LUTE: Objection. 9 You may answer. 10 A No. Because every situation is 11 different. You could never come up with a policy 12 that would incorporate every situation that you 13 come across. It's judgement and subjective. 14 BY MR. HILL: 15 Q You just said, "I've gone to them a 16 million times to get them to respond to every 17 mental health crisis." 18 A Just on the transport to the hospital. 19 That's different. Not just because they're 20 mentally ill. I wanted them to transport, because 21 in my mind it's more medical than police related. 22 Q Mental health crises are? 23 A Yes. 24 Q And a police officer responds to them;</p>



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<p style="text-align: right;">Page 37</p> <p>1 is that what you're saying?</p> <p>2 A Yes.</p> <p>3 Q So just so I understand it, a police</p> <p>4 officer's response to a mental health crisis is</p> <p>5 more medical than investigative police work; fair?</p> <p>6 MR. LUTE: Objection.</p> <p>7 BY MR. HILL:</p> <p>8 Q From your perspective.</p> <p>9 A Mental health crises are diseases of the</p> <p>10 brain. That's medical. Whether or not they need</p> <p>11 EMS in an emergency, that is not necessarily the</p> <p>12 case.</p> <p>13 Q You said it's -- I just want to</p> <p>14 understand what the policy is here. Can you</p> <p>15 identify any policy as to when a police officer</p> <p>16 needs to contact EMS for a mental health crisis</p> <p>17 outside of a physical injury or a medication</p> <p>18 overdose or someone else's medication?</p> <p>19 MR. LUTE: Objection.</p> <p>20 Go ahead.</p> <p>21 A Other than the excited delirium, no</p> <p>22 policy, because it's subjective.</p> <p>23 BY MR. HILL:</p> <p>24 Q Subjective to whom?</p>	<p style="text-align: right;">Page 39</p> <p>1 other departments in this country have, as far as</p> <p>2 policy for it.</p> <p>3 BY MR. HILL:</p> <p>4 Q Have you ever looked to see whether or</p> <p>5 not these types of policies in responding to a</p> <p>6 mental health crisis exist?</p> <p>7 MR. LUTE: Objection.</p> <p>8 Go ahead.</p> <p>9 A It's not my job, so no.</p> <p>10 BY MR. HILL:</p> <p>11 Q So when you said that there's no way to</p> <p>12 have a policy, that's just your -- that's just</p> <p>13 your opinion as you sit here today?</p> <p>14 A Like I said, yes.</p> <p>15 Q And that's not based on any kind of</p> <p>16 research you've done?</p> <p>17 A No.</p> <p>18 Q And I think we can agree you haven't</p> <p>19 done any research as to what policies may be</p> <p>20 available in responding to a mental health crisis</p> <p>21 for law enforcement; true?</p> <p>22 A Yes. That's not my job.</p> <p>23 Q Has anyone here at the department ever</p> <p>24 come to you to discuss creating a policy</p>
<p style="text-align: right;">Page 38</p> <p>1 A To the information we're given and the</p> <p>2 officer responding, the supervisor working.</p> <p>3 There's many situations that -- every single call</p> <p>4 you get is different. There's no way to have a</p> <p>5 policy.</p> <p>6 Q Are you aware of whether any other</p> <p>7 policy -- are you aware of whether any other</p> <p>8 department in the country has a policy?</p> <p>9 A I don't know.</p> <p>10 MR. LUTE: Wait.</p> <p>11 THE WITNESS: Sorry.</p> <p>12 MR. LUTE: Are you done with your</p> <p>13 question?</p> <p>14 MR. HILL: I am.</p> <p>15 BY MR. HILL:</p> <p>16 Q So when you say that there would be no</p> <p>17 way to have a policy, what are you referring to?</p> <p>18 MR. LUTE: Objection.</p> <p>19 You may answer if you understand his</p> <p>20 question.</p> <p>21 A I'm not a medical doctor. In my</p> <p>22 opinion, I don't think you could have a policy for</p> <p>23 every situation that comes out, because every</p> <p>24 situation is different. I'm not aware of what</p>	<p style="text-align: right;">Page 40</p> <p>1 potentially for how to respond to people in a</p> <p>2 mental health crisis?</p> <p>3 MR. LUTE: Objection.</p> <p>4 Go ahead.</p> <p>5 A Not that I recall.</p> <p>6 BY MR. HILL:</p> <p>7 Q Have -- I know you talked about some</p> <p>8 training provided by the fire department about</p> <p>9 responding to a mental health crisis; correct?</p> <p>10 A To a mental health crisis that they</p> <p>11 consider is medical, yes.</p> <p>12 Q Has anyone from Springfield Township,</p> <p>13 who is a law enforcement officer, ever provided</p> <p>14 you with any training about how to respond to a</p> <p>15 mental health crisis?</p> <p>16 A Like I said earlier, the excited</p> <p>17 delirium training we get, yes.</p> <p>18 Q Do you consider excited delirium to be a</p> <p>19 mental illness?</p> <p>20 MR. LUTE: Objection.</p> <p>21 You may answer.</p> <p>22 A In combination with drugs and overdose,</p> <p>23 yes. But that's even subjective in the medical</p> <p>24 community.</p>

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<p style="text-align: right;">Page 41</p> <p>1 BY MR. HILL:</p> <p>2 Q When you say "subjective," what do you</p> <p>3 mean, "in the medical community"?</p> <p>4 MR. LUTE: Objection, qualification.</p> <p>5 You may answer.</p> <p>6 A Doctors are different and have different</p> <p>7 opinions, and so have coroners over the years.</p> <p>8 BY MR. HILL:</p> <p>9 Q So do you -- and I'm not trying to</p> <p>10 really parse words here.</p> <p>11 When you say "subjective," do you mean</p> <p>12 controversial?</p> <p>13 A Yes.</p> <p>14 Q So whether or not excited delirium as a</p> <p>15 disease exists is a medical -- or something that's</p> <p>16 been controversial in the medical field; correct?</p> <p>17 A Yes. I don't consider it a disease. I</p> <p>18 believe it exacerbates a mental illness.</p> <p>19 Q Do you believe that excited delirium is</p> <p>20 a medical condition?</p> <p>21 MR. LUTE: Objection, qualification.</p> <p>22 You may answer.</p> <p>23 A In combination with the drugs that they</p> <p>24 take, yes, absolutely.</p>	<p style="text-align: right;">Page 43</p> <p>1 police officer responding to a scene, you're not</p> <p>2 capable of making any kind of a medical diagnosis?</p> <p>3 A No.</p> <p>4 Q So in terms of a police officer</p> <p>5 responding to the scene, and a person exhibits</p> <p>6 behavior consistent with excited delirium, is it</p> <p>7 your job to get that person to a medical</p> <p>8 professional as soon as possible?</p> <p>9 MR. LUTE: Objection.</p> <p>10 You may answer.</p> <p>11 A Once we get there, if we believe that</p> <p>12 it's an excited delirium situation with drugs</p> <p>13 involved, yes.</p> <p>14 BY MR. HILL:</p> <p>15 Q You keep saying "with drugs involved."</p> <p>16 A Right.</p> <p>17 Q Excited delirium is an emergency;</p> <p>18 correct?</p> <p>19 A Yes.</p> <p>20 MR. LUTE: Objection.</p> <p>21 You may answer.</p> <p>22 A Yes.</p> <p>23 BY MR. HILL:</p> <p>24 Q So what's safest for the person</p>
<p style="text-align: right;">Page 42</p> <p>1 BY MR. HILL:</p> <p>2 Q My question was, though: Do you believe</p> <p>3 that the thing you were describing as excited</p> <p>4 delirium, is that a medical condition?</p> <p>5 MR. LUTE: Objection, qualification.</p> <p>6 You may answer.</p> <p>7 A Only with drugs involved. Not on its</p> <p>8 own.</p> <p>9 BY MR. HILL:</p> <p>10 Q So I just want to understand your</p> <p>11 thinking pattern.</p> <p>12 Are you saying that a person can have</p> <p>13 excited delirium without drugs and it's not a</p> <p>14 medical condition, or are you saying that a person</p> <p>15 can only have excited delirium if they've used</p> <p>16 drugs?</p> <p>17 MR. LUTE: Objection. She's not</p> <p>18 qualified. It's a medical issue.</p> <p>19 You can answer.</p> <p>20 BY MR. HILL:</p> <p>21 Q I'm asking you --</p> <p>22 A That would have been my answer.</p> <p>23 Q So as a police officer responding to a</p> <p>24 scene, since you're not -- we can agree, as a</p>	<p style="text-align: right;">Page 44</p> <p>1 experiencing this -- signs and symptoms of this</p> <p>2 condition of excited delirium, to get them to an</p> <p>3 emergency medical professional immediately or to</p> <p>4 wait until you identify whether or not they've</p> <p>5 taken any drugs?</p> <p>6 MR. LUTE: Objection.</p> <p>7 You may answer. It's a hypothetical,</p> <p>8 but you may answer.</p> <p>9 A I would have to say that many, if not</p> <p>10 most, mental illnesses display at least one</p> <p>11 qualification that you would have for excited</p> <p>12 delirium. You don't know for sure or can't be</p> <p>13 sure that it's excited delirium until you have</p> <p>14 additional information on whether or not they're a</p> <p>15 drug addict, if they've taken drugs, and if that</p> <p>16 could be an added situation. That would be a</p> <p>17 medical emergency.</p> <p>18 A lot of things present as mental</p> <p>19 illness that also could present as excited</p> <p>20 delirium, so you would have to take every</p> <p>21 situation separate.</p> <p>22 BY MR. HILL:</p> <p>23 Q So you have to get, as a police officer</p> <p>24 responding to a complaint of a mental illness,</p>

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<p style="text-align: right;">Page 45</p> <p>1 where a person exhibits at least one sign of 2 excited delirium, it could be excited delirium, or 3 it could just be a mental health issue? 4 A Yes, you have to determine what you 5 believe, yeah. 6 Q And what -- in order to determine or 7 make these determinations as a police officer, 8 you've got to identify the available information; 9 correct? 10 A Yes. 11 Q And you've got to utilize the available 12 resources; correct? 13 A Yes, when necessary. 14 Q And in a situation where a person may 15 have excited delirium, it is necessary; correct? 16 A Yes. 17 Q And in terms of the available 18 information, it could include people who know this 19 person; correct? 20 A Yes. 21 Q It could be calling dispatch to get 22 additional information; correct? 23 A Yes. 24 Q It could be contacting family members if</p>	<p style="text-align: right;">Page 47</p> <p>1 You may answer. 2 A That's kind of contradictive. But if I 3 get to a call where I believe somebody has excited 4 delirium, of course I'm immediately calling EMS. 5 BY MR. HILL: 6 Q Even if you don't know if they've taken 7 drugs? 8 A If I believe it's excited delirium, I 9 believe they've taken drugs. 10 Q How would -- have there ever been any 11 circumstances where you've arrived on a scene 12 where you believe a person had excited delirium 13 but weren't given information about drug use? 14 MR. LUTE: Objection. 15 You may answer. 16 A We can suspect that they've taken drugs, 17 but you never really know for sure. But if you 18 can get the medical emergency there and close and 19 get them settled down enough, then they can be 20 evaluated. But if I believe something is excited 21 delirium and they possibly have taken drugs 22 because it's no behavior I've ever known before or 23 seen before, then yeah, I would have EMS come 24 right away.</p>
<p style="text-align: right;">Page 46</p> <p>1 you know where they are; correct? 2 A Yes. 3 Q It could be contacting other witnesses 4 who may have information about this person's 5 behavior; true? 6 A If you have time. 7 Q It could be making firsthand 8 observations about this individual in front of 9 you; correct? 10 A Yes. 11 Q Certain individuals who may be on drugs 12 exhibit signs that are pretty apparent that 13 they're on drugs; correct? 14 A Sometimes. But like I said, it's a fine 15 line. Mental illness presents as excited delirium 16 and vice versa. 17 Q So as a police officer, do you wait -- 18 let's take a step back. 19 If you have a person who exhibits signs 20 of excited delirium, do you, Sergeant Moore, as a 21 police officer, wait to contact EMS or other 22 medical providers until you have information that 23 confirms that this person has used drugs recently? 24 MR. LUTE: Objection.</p>	<p style="text-align: right;">Page 48</p> <p>1 BY MR. HILL: 2 Q Like what kind of behavior? 3 A For one instance -- you know, excited 4 delirium doesn't happen much anymore. It used to 5 happen a lot more back when methamphetamine was 6 the drug of choice, and it's not now. It's 7 heroin. 8 Back in the day, we had a guy completely 9 nude on a street, running down the street, tearing 10 stuff apart and talking nonsense and trying to 11 fight us, and we couldn't get EMS even close. But 12 of course, I had them staged down the street. And 13 I thought, this is probably a little bit more than 14 psychosis, and it could be drug related. And he 15 was naked, which means he could be overheating, so 16 we had EMS staged. 17 Q So are you saying that's an example of a 18 situation where you thought somebody had excited 19 delirium? 20 A Yes, because it looked drug related to 21 me from my experience. 22 Q And when did this occur? 23 A Years ago. I don't know. I would have 24 to say maybe between five and ten. Meth was a lot</p>

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1 bigger back then.  
2 Q So this event you're referring to  
3 occurred between five and ten years ago?  
4 A Yes. Excited delirium doesn't exhibit  
5 much anymore.  
6 Q I'm just asking about the dates.  
7 And in that situation, just based on the  
8 individual's behavior, it was pretty obvious to  
9 you that he had been using drugs?  
10 A I suspected that he had been using  
11 drugs.  
12 Q And when you suspected he was using  
13 drugs, did you contact EMS?  
14 A Yes.  
15 Q And is that because, based on his  
16 behavior, that triggered the excited delirium  
17 policy that you have here at the station?  
18 A Yes.  
19 Q What happened with that individual? Did  
20 he survive? Did he die?  
21 MR. LUTE: Objection.  
22 Go ahead.  
23 A We finally got him cuffed, but I can't  
24 remember if we took him down or if the squad took

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1 him down. And if the squad did, I'm sure we rode  
2 with him, but I can't remember. It was on  
3 Edwards. I'm sure you could look it up.  
4 BY MR. HILL:  
5 Q On Edwards?  
6 A Uh-huh.  
7 Q And that's a street?  
8 A Yes.  
9 Q What other officers were involved other  
10 than you?  
11 A I don't remember. We've been through  
12 many shift changes since then.  
13 Q Do you know if there was a death  
14 involved with that individual?  
15 A There was not.  
16 Q So I'm assuming he was taken to a  
17 hospital?  
18 A Yeah. Yes, that day he was.  
19 Q Do you know what happened to that  
20 individual?  
21 A We still have problems with that  
22 individual.  
23 Q So he's alive?  
24 A Yes.

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1 Q Any other situations where you have been  
2 asked to respond to something that you consider to  
3 be excited delirium where you weren't given  
4 specific information about the history of drug  
5 use?  
6 A Definitely nothing recent. Nothing  
7 sticks out in my memory.  
8 Q And this event that occurred on Edwards,  
9 it sounds like you don't remember who actually  
10 restrained the individual, whether it was you or  
11 the fire department; is that fair?  
12 A Oh, the fire department did not restrain  
13 them.  
14 Q Okay. Because you said the squad, so I  
15 wasn't sure.  
16 A Yeah, they staged. And once we had him  
17 under control, then -- I know that they talked to  
18 him. I just don't know who transported him.  
19 Q Do you know where, in terms of this  
20 individual being on Edwards, how far away EMS was  
21 staged? Was it like a block over?  
22 A It was off of Krumroy. Edwards was off  
23 of Krumroy. They were staging at the corner of  
24 Krumroy and Edwards. The male ended up about

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1 halfway from his house to Krumroy, in the street.  
2 Q So how far -- I'm not familiar with the  
3 area, so I apologize.  
4 How far was this individual when you  
5 were encountering him to the staging area?  
6 A We started at his house, and he charged  
7 us out of his yard, was charging us in the street  
8 and probably chased us around for 300 yards all  
9 together. It was us trying to take cover and  
10 trying to see if we could control him in some way  
11 that day.  
12 Q So just in terms of where he was  
13 restrained, how far is that from the staging area?  
14 A EMS was pretty far away there, but not  
15 -- I'm sure what you're looking for, maybe 200  
16 feet.  
17 Q And they're within -- you can see them?  
18 A You can see them.  
19 Q Any other occasions where you've been  
20 asked to respond to a scene that you believed was  
21 excited delirium?  
22 And I'm not -- I know earlier I prefaced  
23 the question by saying where no one had told you  
24 about drug use.



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1 I want to know about kind of all  
2 circumstances where you responded to a scene where  
3 you thought that this person exhibits what some  
4 people call excited delirium.  
5 A I think there was another incident on  
6 Albrecht, and that wasn't that long ago.  
7 Q Is that a street, Albrecht?  
8 A Yes. Albrecht Avenue. I'm trying to  
9 think if I remember the officers that were there.  
10 I don't think that I do.  
11 It wasn't until the very end that I  
12 suspected the excited delirium, though, when he  
13 started trying to take off his clothes and  
14 charging us. He was just on the street. We  
15 didn't have any additional information.  
16 Q You said this was fairly recent?  
17 A Yeah, it was pretty recent. Within the  
18 last couple years, I think.  
19 Q And how were you involved?  
20 A I was one of the responding officers. I  
21 arrived after at least the initial officer. I  
22 think there might have been three of us there at  
23 the time.  
24 Q Do you know who the other officers were?

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1 A I don't remember.  
2 Q Do you remember this -- well, let's take  
3 a step back.  
4 The first, we were talking about this  
5 situation on Edwards, where this person had signs  
6 of excited delirium. You said that he is still  
7 somebody that you encounter, okay?  
8 A Yes.  
9 Q Do you know his name?  
10 A Craig Currington.  
11 Q Do you know how you spell Craig  
12 Currington?  
13 A C-R-A-I-G C-U-R-R-I-N-G-T-O-N.  
14 Q And this next individual that was just  
15 within the past few years, do you know who this  
16 individual was?  
17 A No.  
18 Q You contacted EMS in this more recent  
19 case on Albrecht because of excited delirium; is  
20 that correct?  
21 A I suspected it, but not until the very  
22 end.  
23 Q Okay.  
24 A And then we called EMS.

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1 Q But my question is: The reason you  
2 called EMS, was that because you suspected excited  
3 delirium?  
4 A It was a possibility, yeah.  
5 Q And what happened to this individual?  
6 A They always -- any time a situation like  
7 that happens, they get transported, one way or the  
8 other, to the hospital. And again, I don't  
9 remember if it was the squad with an officer  
10 inside or us with him handcuffed.  
11 Q Did this individual on Albrecht, did he  
12 survive?  
13 A Yes.  
14 Q Do you still see him occasionally?  
15 A No.  
16 Q And you don't know what treatment he got  
17 at the hospital, do you?  
18 A No.  
19 Q Do you need to take your phone for any  
20 reason --  
21 A No. I'm sorry. Actually, I had it on  
22 silent. I don't know how it even rang.  
23 Q Any other occasions where you've  
24 responded to a scene and you were dealing with a

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1 person you thought possibly had excited delirium?  
2 MR. LUTE: Objection.  
3 Go ahead.  
4 A Not that I can recall offhand.  
5 BY MR. HILL:  
6 Q The individual that you encountered on  
7 Albrecht, do you remember the nature of the call  
8 originally?  
9 A I know it was a man in the middle of the  
10 street, walking down the street towards traffic.  
11 That's all really I remember.  
12 Q Do you know who was making the initial  
13 call?  
14 A No.  
15 Q In terms of drug use, did anybody tell  
16 you this individual has been using drugs?  
17 A No.  
18 Q Just based on his behavior itself, there  
19 was enough there that it raised the possibility of  
20 excited delirium?  
21 A At the end, it did.  
22 Q There was an individual that's been  
23 mentioned throughout the depositions over the last  
24 week or so named Richard Holcomb, who died.

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<p>1 A Yes.</p> <p>2 Q Do you know who I'm referring to?</p> <p>3 A Yes.</p> <p>4 Q You have a lot of devices making a lot</p> <p>5 of noise.</p> <p>6 A It's the same person, voice mail.</p> <p>7 Q Were you at all involved in responding</p> <p>8 to Richard Holcomb?</p> <p>9 A No.</p> <p>10 Q Were you already a sergeant when Richard</p> <p>11 Holcomb died? And I believe that was in 2005?</p> <p>12 A Yes.</p> <p>13 Q Were you supervising the officers</p> <p>14 involved in responding to Mr. Holcomb?</p> <p>15 A No.</p> <p>16 Q My understanding is that Mr. Holcomb was</p> <p>17 -- a Taser was used against Mr. Holcomb by an</p> <p>18 officer named Officer Albrecht?</p> <p>19 A Yes.</p> <p>20 Q But that's a different situation than</p> <p>21 what happened on Albrecht Road?</p> <p>22 A Avenue, yes.</p> <p>23 Q Were you involved in any way in the</p> <p>24 internal investigation into Mr. Holcomb's death?</p>	<p>1 have been about 2008 or 2009. Is that consistent</p> <p>2 with your memory?</p> <p>3 MR. LUTE: Objection.</p> <p>4 Go ahead.</p> <p>5 A Yes, probably within a five-year period</p> <p>6 of that time. Probably sooner.</p> <p>7 BY MR. HILL:</p> <p>8 Q Five years, give or take?</p> <p>9 A Uh-huh.</p> <p>10 Q You can't be any more specific?</p> <p>11 A I know that it was after John Smith</p> <p>12 became chief. I do know that.</p> <p>13 Q After Officer Scherer stopped providing</p> <p>14 training on excited delirium, and up until your</p> <p>15 involvement with Jordn Miller on September 8th,</p> <p>16 2015, did you receive training on excited delirium</p> <p>17 from anyone at the department?</p> <p>18 A Yes.</p> <p>19 Q Who?</p> <p>20 A Well, Brian Troyer teaches Taser and</p> <p>21 John Lombardi teaches Taser, and they both go over</p> <p>22 excited delirium in training.</p> <p>23 Q Anything else?</p> <p>24 A No.</p>
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<p>1 A No.</p> <p>2 Q Were you interviewed by anyone?</p> <p>3 A Nope.</p> <p>4 Q I know you -- you weren't deposed in</p> <p>5 that case; right?</p> <p>6 A No.</p> <p>7 Q And I know that Officer Scherer was</p> <p>8 deposed in that case because he was a trainer at</p> <p>9 the time.</p> <p>10 Was Officer Scherer your trainer on</p> <p>11 excited delirium?</p> <p>12 A At one time, he was.</p> <p>13 Q And that -- would that have been -- at</p> <p>14 the time of September 8th, 2015, when this</p> <p>15 incident took place with Jordn Miller, was Officer</p> <p>16 Scherer your trainer on excited delirium?</p> <p>17 A I don't believe so.</p> <p>18 Q Do you know when is the last time he</p> <p>19 provided any training to you on excited delirium?</p> <p>20 A I don't know. You'll have to ask him.</p> <p>21 Q He told me his memory was that he</p> <p>22 stopped providing training on excited delirium</p> <p>23 about the time that Chief Smith took control,</p> <p>24 maybe a year or two later. I think that would</p>	<p>1 Q So your excited delirium training that</p> <p>2 you're receiving on the policy here at Springfield</p> <p>3 Township would be included within any Taser</p> <p>4 training; fair?</p> <p>5 A Yes, usually.</p> <p>6 Q There's no separate class or course on</p> <p>7 how to respond to excited delirium that's being</p> <p>8 offered in Springfield Township?</p> <p>9 MR. LUTE: Objection.</p> <p>10 You may answer.</p> <p>11 A Currently?</p> <p>12 BY MR. HILL:</p> <p>13 Q As of September 8th, 2015.</p> <p>14 A Not that I'm aware of.</p> <p>15 Q How about currently?</p> <p>16 A No.</p> <p>17 Q A police officer must never needlessly</p> <p>18 endanger a member of the public; true?</p> <p>19 A Yes.</p> <p>20 Q A police officer should strive to uphold</p> <p>21 the safety of the public; true?</p> <p>22 A Yes.</p> <p>23 Q When there's more than one way to handle</p> <p>24 or restrain a member of the public, a police</p>



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1 officer should always select the way that's safest  
2 for the member of the public; true?  
3 MR. LUTE: Objection.  
4 Go ahead.  
5 A And the officer and the public around  
6 that and that person.  
7 BY MR. HILL:  
8 Q And this includes the decision about  
9 what force an officer is to use?  
10 A Yes.  
11 Q And this includes making decisions about  
12 how to restrain a person in a specific position;  
13 true?  
14 A Yes.  
15 Q And that's because some positions are  
16 more dangerous to members of the public than other  
17 positions?  
18 A Yes.  
19 Q This includes planning how to address  
20 members of the public who may be in a medical or  
21 mental crisis; true?  
22 MR. LUTE: Objection.  
23 Go ahead.  
24 A It applies to anybody.

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1 BY MR. HILL:  
2 Q I mean in terms of selecting the safest  
3 way to handle a member of the public, that  
4 includes making decisions or plans about how to  
5 address a person in a mental health crisis; true?  
6 A If they're posing a threat to people  
7 around, I believe we have to do what we have to do  
8 so that those people don't get injured as well,  
9 yes.  
10 Q And in terms of selecting the way that  
11 is safest for either the person in a mental health  
12 crisis or members of the public around that person  
13 in a mental health crisis, officers need to  
14 formulate a plan on how to act; true?  
15 MR. LUTE: Objection.  
16 Go ahead.  
17 A Most of the time, there's not time to  
18 formulate a plan if you're in a serious medical  
19 emergency or mental emergency or if there's a  
20 commission of a felony going on. You don't have  
21 time to formulate a plan.  
22 BY MR. HILL:  
23 Q Do you attempt to formulate a plan?  
24 A We work together as officers. And in my

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1 case, I'm a pretty seasoned officer, and you know,  
2 you know who you're working with and what needs to  
3 be done. But there is usually no time to go, hey,  
4 let's do A, B and C, and then do it. You do what  
5 is safest for everybody and to the best of your  
6 ability.  
7 Q If there is time to identify let's do A,  
8 B and C, officers should make an attempt to do so;  
9 correct?  
10 MR. LUTE: Objection.  
11 Go ahead.  
12 A There have been times for that.  
13 BY MR. HILL:  
14 Q And those are occasions where an  
15 individual is not demonstrating any overt threat  
16 to anybody and there's time for the officers to  
17 deliberate and make decisions; true?  
18 A I mean, there's been people with knives  
19 holding the knives to their chest, and we could  
20 whisper for a second, "hey, okay, on three we're  
21 going to go and try to grab the knife from him,"  
22 you know. You can whisper sometimes. But  
23 usually, they hear you and call you out. So no,  
24 not usually.

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1 Q You said that you're a hostage  
2 negotiator; correct?  
3 A I'm trained in it. I'm not anymore.  
4 Q When were you trained on how to be a  
5 hostage negotiator?  
6 A I believe I was on Metro SWAT from -- I  
7 think I started in '98, and I was on for five or  
8 six years. I would have gotten trained sometime  
9 within that time at the beginning of my career  
10 with the SWAT team.  
11 Q You said Metro SWAT. Is that Akron?  
12 A It's the SWAT team that involves all of  
13 the jurisdictions basically around here. It's a  
14 metro area. So I believe Brimfield used to be in  
15 it, Streetsboro, Springfield, Lakemore, when they  
16 were separate. Tallmadge used to be in it. I  
17 don't know if Aurora is still in it or not. I'm  
18 not involved with Metro SWAT anymore. But  
19 everybody pays their fair share, and then they  
20 train together and respond to each jurisdiction.  
21 Q Metro SWAT still exists?  
22 A Yes.  
23 Q And it sounds like the last time you  
24 would have been at Metro SWAT would have been

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<p style="text-align: right;">Page 65</p> <p>1 something like 2003, 2004?</p> <p>2 A Yeah, '04 or '05, maybe.</p> <p>3 Q So during your five to six years --</p> <p>4 well, let me ask you: Why did you want to be a</p> <p>5 member of Metro SWAT?</p> <p>6 A Well, I was a pretty young officer. I</p> <p>7 don't know that I was highly confident of myself</p> <p>8 at that time. And the sergeant at the time, who</p> <p>9 ended up being captain and then chief, Garry</p> <p>10 Moneypenny, pretty much talked me into it.</p> <p>11 Q What do you mean?</p> <p>12 A He said, "I think that you would do a</p> <p>13 good job, and I'd like you to think about being a</p> <p>14 hostage negotiator on Metro SWAT." And I agreed</p> <p>15 to do it, to be perfectly honest.</p> <p>16 Q And you underwent some training, I would</p> <p>17 think, in how to be a hostage negotiator?</p> <p>18 A It was hostage negotiator training, yes.</p> <p>19 Q Where did you receive that training?</p> <p>20 A I don't remember.</p> <p>21 Q Do you remember who provided any</p> <p>22 training on being a hostage negotiator?</p> <p>23 A I think there was an advanced class and</p> <p>24 the regular class, and I think Garry Moneypenny</p>	<p style="text-align: right;">Page 67</p> <p>1 Q Do you remember where any of these</p> <p>2 call-outs were?</p> <p>3 And the reason I ask is because if I try</p> <p>4 to get the records, it could be difficult.</p> <p>5 A I get it. I'm trying to figure it out.</p> <p>6 It seems like there was an incident</p> <p>7 that -- I don't know if it's considered Copley or</p> <p>8 Fairlawn. It was in an apartment complex behind</p> <p>9 the Home Depot in Fairlawn, so I don't know where</p> <p>10 that would be considered, if it was Copley. I</p> <p>11 believe it was Copley. It could have been</p> <p>12 Fairlawn. I don't know. There was one there.</p> <p>13 There was one in Streetsboro. I don't</p> <p>14 know that I was a primary negotiator on any in</p> <p>15 Springfield that I'm aware of. But there's been</p> <p>16 times where I've negotiated people out of the</p> <p>17 house where they haven't called Metro SWAT, but</p> <p>18 you would have to get the records of Metro SWAT.</p> <p>19 Q In terms of the incident that happened</p> <p>20 at either Copley or Fairlawn, what was the nature</p> <p>21 of the incident where you were a primary</p> <p>22 negotiator?</p> <p>23 A I'm sorry. It's been so long, I can't</p> <p>24 remember the details. It was a barricade for</p>
<p style="text-align: right;">Page 66</p> <p>1 trained one of those two. And I couldn't tell</p> <p>2 you. But I'm sure it's in my personnel file.</p> <p>3 Q Do you remember what year you underwent</p> <p>4 any training to be a hostage negotiator?</p> <p>5 A It could be anywhere from '97, '98, '99.</p> <p>6 Q Do you remember anything about what that</p> <p>7 training consisted of?</p> <p>8 A Classroom, scenario-based. That was</p> <p>9 basically it. It was pretty lengthy.</p> <p>10 Q Have you ever had to put your hostage</p> <p>11 negotiating skills into practice?</p> <p>12 A Yes.</p> <p>13 Q When?</p> <p>14 A We've had -- we had many call-outs when</p> <p>15 I was a negotiator. You would have to get the</p> <p>16 records. But I was the primary negotiator on a</p> <p>17 few of those.</p> <p>18 Q Can you give me -- were these with</p> <p>19 Springfield Township or for Metro SWAT?</p> <p>20 A Always through Metro SWAT. It depends</p> <p>21 on where the call-out is. The call-out could have</p> <p>22 be in Brimfield. It could be have been in</p> <p>23 Springfield. It could have been in Lakemore. It</p> <p>24 could have been in Streetsboro.</p>	<p style="text-align: right;">Page 68</p> <p>1 sure.</p> <p>2 Q Did it involve weapons?</p> <p>3 A I don't know if there were hostages. I</p> <p>4 think there was one that involved a weapon.</p> <p>5 Q It doesn't sound like you're in a</p> <p>6 position to describe what happened.</p> <p>7 A I don't remember them. That was very --</p> <p>8 20 years ago.</p> <p>9 Q So just before we move on, as we sit</p> <p>10 here, can you remember the details or even the</p> <p>11 general substance of any occasions where you were</p> <p>12 acting as a hostage negotiator?</p> <p>13 A Other than being called out to a</p> <p>14 barricade and possible hostage, no, no details.</p> <p>15 Q Police officers must use the least</p> <p>16 amount of force needed under the circumstances;</p> <p>17 true?</p> <p>18 A Yes.</p> <p>19 Q Once a person is restrained, police</p> <p>20 officers are no longer permitted to use force on</p> <p>21 that individual; true?</p> <p>22 A No.</p> <p>23 MR. LUTE: Objection.</p> <p>24 Go ahead.</p>

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1 THE WITNESS: I'm sorry.  
2 BY MR. HILL:  
3 Q Have you been trained here at  
4 Springfield Township that once a person is  
5 restrained police officers are permitted to use  
6 force?  
7 A In my police training and experience,  
8 you can use the amount of force necessary to keep  
9 them from injuring themselves, the police  
10 officers, or the public, whether they're  
11 restrained or not.  
12 Q And based on your understanding of the  
13 policies here at Springfield Township, are  
14 officers allowed to use an electrical conducted  
15 weapon on a person who is restrained in handcuffs?  
16 MR. LUTE: Objection.  
17 Go ahead.  
18 A If anybody is in danger for their  
19 physical well-being, you can use whatever use of  
20 force necessary to get them under control.  
21 BY MR. HILL:  
22 Q When you say danger for their  
23 well-being, in terms of danger, what type of  
24 danger are you referring to?

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1 A If they are trying to kick officers, if  
2 they're trying to get away from you, if they're  
3 trying to hurt the public, if they're banging  
4 their head on the ground and hurting themselves.  
5 Those are examples.  
6 Q Can an officer then use a Taser on a  
7 restrained person because he's banging his head on  
8 the ground?  
9 A If he's hurting himself and we need to  
10 immobilize him, yes.  
11 Q And then what would be the purpose of  
12 tasing a restrained individual who is -- who has  
13 banged his head on the ground?  
14 A I wouldn't want him to get a concussion  
15 or knock himself out or kill himself. And people  
16 have the force to do that.  
17 Q So under that circumstance, the Taser of  
18 a restrained person, who is handcuffed, would be  
19 to help that person? Is that your understanding?  
20 A And be a way to control him so he  
21 wouldn't hurt himself anymore.  
22 Q In your experience here at Springfield  
23 Township, on how many occasions have you seen  
24 officers use a Taser on a person who is restrained

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1 in handcuffs?  
2 MR. LUTE: Objection.  
3 You may answer.  
4 A Multiple times.  
5 BY MR. HILL:  
6 Q Can you give me -- when you say  
7 "multiple," is it more than five, more than ten,  
8 more than 20?  
9 MR. LUTE: Objection.  
10 You may answer if you know.  
11 A I don't know exactly. I would say  
12 around ten. Maybe more.  
13 BY MR. HILL:  
14 Q Have you, during the course of your  
15 employment here at Springfield Township, used an  
16 electrical conducted weapon or a Taser on a person  
17 who was restrained in handcuffs?  
18 MR. LUTE: Objection.  
19 Go ahead.  
20 A I don't remember. I would have to look  
21 at the use of force reports.  
22 BY MR. HILL:  
23 Q As a supervisor here at Springfield  
24 Township, sometimes you sign off on the uses of

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1 force of other officers?  
2 A No. The use of force reports go  
3 directly to the chief. They may or may not give  
4 them to me to look them over, make sure the  
5 typos -- there's no typos or, you know, anything  
6 that I can think of more that we need to put in  
7 there. But other than that, they go straight to  
8 the chief of police.  
9 Q Here at Springfield Township, do  
10 sergeants sign use of force reports?  
11 A They go to the chief.  
12 Q How about with respect -- go ahead. I'm  
13 sorry.  
14 A And the chief may give them to the Taser  
15 instructors. I don't know.  
16 Q Here at Springfield Township, do  
17 sergeants, like yourself, sign off as a supervisor  
18 on Taser use of force reports?  
19 A Not that I'm aware of. I mean, they go  
20 to the chief of police unless there's something --  
21 you know, a new form that they've created this  
22 week.  
23 Q I'm not worried about anything this  
24 week. But in your experience here, it's your

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<p>1 understanding that Taser use of force reports go 2 directly to the chief of police? 3 A All use of force reports do. 4 Q And in so doing -- well, let me ask you, 5 then: How do they go from the person who used the 6 force to the chief? Are they just put in the 7 chief's box? 8 A Uh-huh. 9 Q Yes? 10 A Yes. 11 Q He's got a mailbox here? 12 A Several. 13 Q And then these mailboxes, one of them, 14 I'm assuming, says "use of force" or something 15 like that? 16 A No. 17 Q Then how -- you say they have several. 18 What are the different mailboxes? 19 A There's one on the outside of his office 20 and one in the mailbox room. 21 Q So there's two? 22 A Two. 23 Q And if a patrol officer or someone who 24 uses a Taser on somebody -- how do they get their</p>	<p>1 MR. LUTE: Want to take five? 2 MR. HILL: Yeah, sure. 3 MR. LUTE: We'll take five. 4 (Recess taken.) 5 BY MR. HILL: 6 Q Using more force than is needed is 7 excessive; true? 8 MR. LUTE: Objection. 9 Go ahead. 10 A Yes. 11 BY MR. HILL: 12 Q Part of a police officer's job is to 13 help people who are in trouble; true? 14 A Yes. 15 Q And that includes people from all 16 different types of society; correct? 17 A Yes. 18 Q As a police officer, it's your job to 19 help people in trouble from all different aspects 20 of our community; correct? 21 A Yes. 22 Q It's your job to protect people 23 regardless of race; correct? 24 A Yes.</p>
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<p>1 use of force report to the chief? 2 A They walk it to the mailbox or hand it 3 to the chief. 4 Q And what does the chief do with it; do 5 you know? 6 A You'll have to ask him. 7 Q Sergeants aren't making decisions about 8 whether or not the use of force was appropriate 9 under the circumstances? 10 A Nope. 11 Q Okay. 12 A No. 13 Q And that goes for a Taser as well, the 14 use of a Taser? 15 A Yes. 16 Q Do you consider yourself -- well, has 17 that always been the case here? 18 A Yes. 19 MR. LUTE: We've been going for about an 20 hour. Do you want to take a break? 21 THE WITNESS: It's up to you guys. I'm 22 all right. 23 MR. HILL: It's fine with me, if you 24 want to.</p>	<p>1 Q Regardless of age? 2 A Yes. 3 Q Regardless of socioeconomic status? 4 A Yes. 5 Q Regardless of whether they have prior 6 criminal convictions or not? 7 A Yes. 8 Q As part of your job, you undertook or 9 gave an oath to protect people's constitutional 10 rights; correct? 11 A Yes. 12 Q And it's your sworn obligation to 13 protect the constitutional rights of members of 14 our community; correct? 15 A Yes. 16 Q And that includes people in Springfield 17 Township? 18 A Yes. 19 Q That includes people traveling through 20 Springfield Township? 21 A Yes. 22 Q And as part of your role in Metro SWAT, 23 that included people from all over the Akron 24 community; correct?</p>



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<p>1 A Yeah. More than the Akron community, 2 Summit, Portage County. 3 Q And the community should be able to 4 trust law enforcement to uphold their 5 constitutional rights; true? 6 A Yes. 7 Q And the members of our community should 8 expect or should trust law enforcement officers 9 not to violate their constitutional rights; true? 10 A Yes. 11 Q And why is that kind of community trust 12 important? 13 A You would have chaos if the community 14 did not trust law enforcement and just went off 15 and did whatever they wanted to do. You have to 16 have some kind of organized policing. And they 17 have to trust you, or it would be chaos. 18 Q Any other reasons? 19 A You have to have law. There has to be 20 structure. Everybody needs structure and rules in 21 society and parenting and all aspects of life. 22 People would rather have rules than no rules at 23 all. 24 Q And in terms of rules, are you saying</p>	<p>1 A Yes. 2 Q Have you ever testified as an expert in 3 the use of force or police procedures? 4 A No. 5 Q Have you ever been retained as a 6 consultant on the use of force or police 7 procedures? 8 A No. 9 Q Do you consider yourself to be an expert 10 in the use of force or police procedures? 11 A No. 12 Q Have you ever been asked by any 13 department to provide training or consulting to 14 police officers on the use of force? 15 A No. 16 Q Have you ever been retained or asked to 17 train officers from any police department on 18 police procedures or tactics? 19 A No. 20 Q Do you consider yourself, as part of 21 your job here as a supervisor, to be familiar or 22 well versed in the policies, practices and customs 23 of Springfield Township Police Department? 24 A Yes.</p>
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<p>1 that -- rules that police officers should follow? 2 A Yes, and rules for children and every 3 aspect of life. 4 Q It's your sworn responsibility to 5 protect people's Fourth Amendment right to be free 6 from unreasonable searches and seizures; true? 7 A Yes. 8 Q It's your sworn obligation to protect 9 people's constitutional rights to get necessary 10 medical care; correct? 11 A Yes. 12 Q It was your sworn obligation to protect 13 Jordn Miller's constitutional rights on September 14 8th, 2015; true? 15 A As much as possible. 16 Q That included Jordn Miller's right to be 17 free from any unreasonable searches and seizures; 18 true? 19 A Yes. 20 Q That included Jordn Miller's right to be 21 free from any excessive force; true? 22 A Yes. 23 Q That included Jordn Miller's right to 24 necessary medical care; correct?</p>	<p>1 Q Force means any violence, compulsion or 2 constraints physically exerted by any means upon 3 or against a person or thing; true? 4 A I would say. I don't know what the 5 Webster's dictionary says, but that sounds about 6 right. 7 Q That's the definition in Springfield 8 Township's use of force policy, okay? 9 A Okay. 10 Q You don't disagree with that definition? 11 A No. 12 Q Force, then, would include a police 13 officer's decision to physically grab and move a 14 person from one location to another; true? 15 A That would be force. 16 Q Force includes a police officer's 17 decision to physically restrain a person; true? 18 A Yes. 19 Q That includes a police officer's 20 decision to restrain a person and prevent them 21 from moving from one area to another; correct? 22 A Yes. 23 Q That includes restraining a person and 24 holding them in a specific position; true?</p>

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1 A Yes.  
2 Q That includes an officer's decision to  
3 restrain a person and prevent them from rolling  
4 over or turning; true?  
5 A Yes.  
6 Q Force would include holding a person on  
7 the ground; true?  
8 A Yes.  
9 Q Force would include kicking a person;  
10 true?  
11 A Yes.  
12 Q Force would include striking a person  
13 with your forearm; true?  
14 A Yes.  
15 Q Force would include using an electrical  
16 conducted weapon; true?  
17 A Yes.  
18 Q When deciding whether to use force on a  
19 member of the public, police officers should  
20 consider the mental capacity of the subject at the  
21 time; true?  
22 MR. LUTE: Objection.  
23 You may answer.  
24 A Everything is -- every situation, like I

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1 said before, is different.  
2 If it's an electrical device that's  
3 what's necessary to control them, then we have to  
4 use it, whether they have a medical problem or a  
5 mental problem or whatever the case may be.  
6 BY MR. HILL:  
7 Q You said every situation is different.  
8 A For the most part.  
9 Q And one of the things that can be  
10 different from one situation to another is the  
11 person's mental capacity; fair?  
12 A It's possible.  
13 Q But in terms of the decision to use an  
14 electrical conducted weapon, it sounds like  
15 there's no distinction being made here at  
16 Springfield Township in terms of whether to use an  
17 electrical conducted weapon on a person with a  
18 diminished mental capacity or a person of a normal  
19 mental capacity; is that fair?  
20 MR. LUTE: Wait a minute. Your question  
21 is: It seems there's no distinction here between  
22 the use of an electrical conducted weapon against  
23 a person with diminished mental capacity versus --  
24 what was the second part?

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1 MR. HILL: I'll rephrase it.  
2 BY MR. HILL:  
3 Q In terms of your decision-making as to  
4 whether to use an electrical conducted weapon on a  
5 member of the public, does a person's mental  
6 capacity factor in in any way?  
7 MR. LUTE: Objection.  
8 Go ahead.  
9 A I use whatever force necessary, and we  
10 use any force necessary that we can to put them  
11 under control.  
12 If it's grabbing them by the arm, then  
13 that's the force we use. If it's putting them to  
14 the ground, then that's the force we use. If  
15 it's, you know, running after them and tackling  
16 them, then that's the use of force. If nothing is  
17 working, we escalate, and eventually it might get  
18 to an electrical device. So every situation is  
19 different.  
20 BY MR. HILL:  
21 Q And my question, though, is: Is there a  
22 difference in your approach or response in the  
23 amount of force you use or whether to use force  
24 based on whether that person has a diminished

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1 mental capacity or not?  
2 A It's not my job to determine whether  
3 they do or not. And even if it's my opinion that  
4 they may or may not, I still have to do whatever  
5 force is necessary to keep them under control.  
6 Q That's all I'm asking.  
7 A Okay.  
8 Q Is whether or not your decision to use  
9 force is not influenced by whether they have a  
10 diminished mental capacity or not. That's my only  
11 question.  
12 A Yes.  
13 Q When you say yes, you're agreeing that  
14 the person's mental capacity is not a factor in  
15 your decision to use force; fair?  
16 A If I have to use the force, then yes, I  
17 will use it, if it's necessary.  
18 Q And I just want to make sure I'm getting  
19 an answer to my question.  
20 A I mean, you know, you're going a couple  
21 different ways. I mean, if you want to rephrase,  
22 you can. I'm not sure exactly what you're looking  
23 for, I guess.  
24 Q As a police officer here at Springfield



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<p>1 Township, do you use the same amount of force 2 regardless of whether the person is suffering from 3 a diminished mental capacity? 4 A If I have to use the force, then I'll 5 use the force, yes. 6 Q Does your decision to escalate force, is 7 that the same regardless of whether the person has 8 a diminished mental capacity and/or a normal 9 mental capacity? 10 MR. LUTE: Objection. 11 Go ahead. 12 A If it's necessary, yes. It doesn't 13 matter what they have. 14 BY MR. HILL: 15 Q In terms of your decision to use force, 16 you would use the same amount of force under the 17 same circumstances regardless of whether the 18 person has a diminished mental capacity; true? 19 A If I believe that they do, yes. 20 Oh, my goodness. Sorry. 21 Q Do you need to get that? 22 A No. 23 Q Some individuals with diminished mental 24 capacity may not be able to follow a police</p>	<p>1 A I am sorry. 2 Q Let me know when you're ready. 3 A I'm going to turn this thing off, 4 because I think it's just the Apple watch that's 5 the problem. And it won't bug me. I'm sorry 6 about that. I've never turned it off before so -- 7 I'm good. 8 Q Some individuals with diminished mental 9 capacity may not understand the roles that police 10 officers play in a particular situation; true? 11 A I don't know what they think. 12 Q Is that something that you have to 13 consider when re -- 14 A It's possible, yes. 15 Q So it's something that a reasonable 16 officer should consider when responding to members 17 of the public; true? 18 A Yes. 19 Q And for example, there are members of 20 our community who may have diminished mental 21 capacities; true? 22 A Yes. 23 Q And those could include individuals with 24 cognitive deficits or mental retardation?</p>
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<p>1 officer's commands; true? 2 A Yes. 3 Q Some individuals with a diminished 4 mental capacity may act in ways inconsistent with 5 police officers's commands; true? 6 A That and injured people and -- a lot of 7 people have a problem with our commands. 8 Q And for a drunk person, that actually 9 may be they're so intoxicated they actually have, 10 temporarily, diminished mental capacity; true? 11 A At the time, you could say. 12 Q Some individuals with diminished mental 13 capacities may not understand that they're 14 interacting with the police; true? 15 A It's not for me to say. I suppose it's 16 possible. 17 Q Is it anything you've ever considered as 18 a police officer? 19 A I think everybody considers that 20 possibility. 21 Q Including reasonable police officers? 22 A Yes. 23 Q Some individuals with diminished mental 24 capacity --</p>	<p>1 A Yes. 2 Q They could include members of our 3 elderly community who may have dementia or 4 Alzheimer's? 5 A Yes. 6 Q It may include very young children, for 7 example? 8 A Yes. 9 Q It may include individuals with certain 10 medical conditions like diabetes or other 11 conditions that can cause mental changes? 12 A Yes. 13 Q It may be individuals who have problems 14 with medication; correct? 15 A Yes, but they're not mental illnesses. 16 They're situational. Somebody with diabetes 17 doesn't have a mental illness. 18 Q Sure. But temporarily, they may have a 19 diminished mental capacity -- 20 A Cognitive difficulties. 21 Q -- because of high or low sugar? 22 A Well, that's what causes, yeah, for them 23 to act out, would be aggressive, sometimes. 24 Q And that's -- so that's a great example.</p>

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<p style="text-align: right;">Page 89</p> <p>1 So some people who have issues with 2 their glucose levels, because of diabetes, may be 3 delirious or aggressive under the circumstances 4 from no fault of their own; true? 5 A Correct. And they're not mentally ill, 6 yeah. They have diabetes. 7 Q Sure. And at that moment, when they're 8 acting or behaving in that way, they may not 9 understand that they are acting in that way; 10 correct? 11 A Yes. 12 Q And in that situation, where officers 13 find themselves, they have to take into 14 consideration that this person's behavior may be 15 the result of a medical condition; true? 16 A Yes. 17 Q Because using force against that person 18 may not get them to change their behavior, because 19 they don't understand why they're doing it; true? 20 MR. LUTE: Objection. 21 You may answer if you know. 22 A You have to use force no matter what 23 cognitive or mental status they're in, if you have 24 to get them medical attention.</p>	<p style="text-align: right;">Page 91</p> <p>1 A No. 2 Q That would go really for any use of 3 force; correct? 4 A Yes. 5 Q Would that be true of other conditions 6 I've described as well, like Alzheimer's or 7 dementia? 8 A If you have to get them medical 9 attention, you have to control them, so yes. 10 Q And for an individual whose behavior is 11 being caused by Alzheimer's or dementia, will you 12 also use a Taser against such a person? 13 A If you have to. 14 Q Would you also use a forearm strike 15 against such a person? 16 MR. LUTE: Objection. 17 A If you have to. 18 BY MR. HILL: 19 Q Would you also kick such a person? 20 MR. LUTE: Objection. 21 Go ahead. 22 A If you have to. 23 BY MR. HILL: 24 Q And those are things that you would do,</p>
<p style="text-align: right;">Page 90</p> <p>1 BY MR. HILL: 2 Q So in terms of responding to an 3 individual who has -- who is in the throes of a 4 medical crisis because of diabetes, glucose 5 irregularities, would you alter your response in 6 any way? 7 A No, if I need to control them. It 8 happens a lot. 9 Q And that would include using force 10 against that individual? 11 A Yes. 12 Q That would include using a Taser against 13 that individual? 14 A Yes, if necessary. 15 Q Would that include using strikes of the 16 forearm against that individual? 17 A It depends. 18 Q It's one of the options you consider? 19 A Uh-huh. 20 Q Yes? 21 A Yes. 22 Q There would be no restriction on that 23 just because the person's behavior is caused by 24 their diabetes?</p>	<p style="text-align: right;">Page 92</p> <p>1 kicking, striking or tasing, in an effort to get 2 that person medical attention potentially? 3 A To put them under control to get them 4 medical attention, yes, and keep them from hurting 5 people and themselves. 6 Q And nothing about your response and the 7 use of force would be influenced by that person's 8 actions being caused by Alzheimer's or dementia; 9 true? 10 A I would take into consideration if I 11 believed that was the case or if a wife told me, 12 "oh, my husband is suffering from dementia." But 13 it would not make a difference in the way that I 14 have to control them or the use of force I use. 15 Q And I just want to make sure I'm clear. 16 In terms of training here at Springfield 17 Township, you've never received any training 18 instructing you to change your response or the 19 amount of force you use based on the fact that a 20 person's actions are being caused by a medical 21 condition; is that true? 22 A Use of force is use of force. You have 23 to do that regardless of, like you said, whether 24 you're white, black, Asian, economic status,</p>

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<p style="text-align: right;">Page 93</p> <p>1 whatever it is and whatever the situation. If you 2 have to put them under control, you have to do 3 what you have to do. 4 Q Should officers attempt to refrain from 5 using force when a person's actions are likely 6 being caused by a diminished mental capacity? 7 MR. LUTE: Objection. 8 Go ahead. 9 A My answer is still the same. If they 10 have to use force, they have to whether they want 11 to or not. 12 BY MR. HILL: 13 Q In terms of interacting with a member of 14 the public who has a diminished mental capacity, 15 is the approach by officers and when to use force 16 the same regardless of their mental capacity? 17 MR. LUTE: Objection. 18 Go ahead. 19 A Yes, it's the same. These are all the 20 same questions. 21 BY MR. HILL: 22 Q Police officers must never punish a 23 person for being in a diminished mental state; 24 true?</p>	<p style="text-align: right;">Page 95</p> <p>1 people in a public setting; true? 2 A Yes. 3 Q Or a person running around naked in the 4 street, like an example you gave me earlier; true? 5 A Yes. 6 Q It may be a person who is in their home; 7 true? 8 A Yes. 9 Q May be a person who is in a car; true? 10 A Yes. 11 Q And people who are mentally ill may be 12 experiencing confusion; correct? 13 A Yes. 14 Q They may act strangely; correct? 15 A Yes. 16 Q They may be agitated; correct? 17 A Yes. 18 Q They may not understand the role of 19 police officers; true? 20 A Yes. 21 Q They may not be able to follow verbal 22 commands of police officers; true? 23 A Yes. 24 Q Do you believe that law enforcement</p>
<p style="text-align: right;">Page 94</p> <p>1 A True. 2 Q Police officers must never use force as 3 a punitive measure; true? 4 A True. 5 Q When addressing a member of the public 6 with a diminished mental capacity, a police 7 officer must never make that person less safe; 8 true? 9 MR. LUTE: Objection. 10 You may answer if you know. 11 A You never want to hurt anybody or them 12 to hurt anybody. 13 BY MR. HILL: 14 Q And when addressing a member of the 15 public with a diminished mental capacity, police 16 officers must take every step possible to avoid 17 making them less safe; true? 18 A Yes. 19 Q Law enforcement officers are often 20 called upon to help mentally ill people; true? 21 A Yes. 22 Q In lots of different scenarios; true? 23 A Yes. 24 Q And some of those scenarios may be</p>	<p style="text-align: right;">Page 96</p> <p>1 officers should do everything in their power to 2 protect the safety of mentally ill people in need 3 of help? 4 MR. LUTE: Objection. 5 You may answer. 6 A Yes. 7 BY MR. HILL: 8 Q Because these are members of our 9 community and in need of help, like any others? 10 A Yes. 11 Q When engaging members of the public who 12 are suffering a mental health crisis, police 13 officers should attempt to engage in de-escalation 14 tactics; true? 15 MR. LUTE: Objection. 16 Go ahead. 17 A Yes. 18 BY MR. HILL: 19 Q And what are some examples of 20 de-escalation tactics that police officers can use 21 when engaging a member of our community in the 22 throes of a mental health crisis? 23 MR. LUTE: Objection. 24 Go ahead.</p>

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1 A Well, if you know it's a mental health  
2 crisis -- really, in any crisis where they're  
3 agitated or combative or barricading themselves,  
4 you are going to use the same tactic, whether  
5 they're mentally ill or not. You need to do what  
6 you can to de-escalate them and get them to calm  
7 down. So of course everybody tries to talk to  
8 them first and try to negotiate with them and,  
9 hey, what can we do to make this better, what can  
10 we do for you, you know, if you cooperate with us,  
11 we'll, you know, try to do what you want us to do  
12 or what you need us to do, but we can't leave  
13 here, you know, with you like this kind of thing.  
14 If that doesn't work and, you know,  
15 they're still running around or charging people or  
16 damaging things, then we have to do what we have  
17 to do to control them as well.  
18 BY MR. HILL:  
19 Q When can an officer escalate  
20 de-escalation to using force?  
21 A If somebody -- if you try to put your  
22 hands on them to cuff them, tell them they're  
23 under arrest and they pull away from you, if they  
24 run from you, if they try to fight you.

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1 Q Putting cuffs on a person, would that be  
2 a use of force?  
3 A No.  
4 Q How about if officers go to grab  
5 somebody? That's a use of force?  
6 A If they're trying --  
7 MR. LUTE: Objection.  
8 Go ahead.  
9 A If they're trying to get away from you  
10 and they're evading you.  
11 BY MR. HILL:  
12 Q It's not a use of force if the person is  
13 being -- is not trying to evade the officers?  
14 A If I go, hey, buddy, you know, like,  
15 let's do this, let's do that, you know, I might  
16 have my hand on their shoulder or on their arm.  
17 It doesn't mean I'm grabbing on. So I guess it  
18 depends on exactly what you're talking about. If  
19 I grab them to arrest them and say you're under  
20 arrest, then that's use of force, if they try to  
21 break away and then I have to go at them with more  
22 strength to get them handcuffed, so yes.  
23 Q When an officer physically grabs  
24 somebody and pulls them towards the officer,

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1 that's a use of force; correct?  
2 A No. I mean, if you have to arrest  
3 somebody, you can -- you have to grab their arm  
4 and put their hands behind their back. That's not  
5 use of force. That's handcuffing somebody.  
6 Q If an officer physically grabs somebody  
7 and pulls them to the ground, is that a use of  
8 force?  
9 A Yes.  
10 Q Officers should always attempt to  
11 de-escalate situations, not escalate them; true?  
12 A Yes.  
13 Q Officers should never be the first  
14 aggressor; true?  
15 A Yes.  
16 Q Should an officer's use of force only be  
17 in response to a member of the public's  
18 threatening behavior?  
19 A Yeah, that would be the point of  
20 excessive force.  
21 Q Did you ever go to any training on any  
22 de-escalation tactics here at Springfield  
23 Township?  
24 A De-escalating training was covered in

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1 the CIT training. It was covered in the hostage  
2 negotiating training.  
3 Q Have we already discussed all the types  
4 of de-escalating tactics you're aware of?  
5 A Yes. I mean, while I'm sitting here.  
6 Q Well, this is my only opportunity to ask  
7 you questions.  
8 A Well, you can ask me if something is a  
9 de-escalating tactic, and I'll tell you yes or no,  
10 what my opinion is, if you want. But when I'm put  
11 on the spot, I mean, there's only so many things I  
12 can come up with. But if I had examples, sure,  
13 I'd be able to tell you yes or no.  
14 Q And I just want to know as you sit here.  
15 For example, if you're out in the field,  
16 you may have to use de-escalation tactics;  
17 correct?  
18 A Yes.  
19 Q And you have to use them on the spot  
20 based on what you know at the time; correct?  
21 A Uh-huh.  
22 Q Correct?  
23 A Yes.  
24 Q So in terms of today, all I want to know



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<p>1 is have you told me all the de-escalation tactics 2 that you can think of as you sit here? 3 A As I sit here. But if you want to play 4 out a scenario, I could answer something 5 different. I would be glad to tell you more. 6 Q When deciding whether to use force on 7 members of the public, should police officers 8 consider whether the person may be under the 9 influence of drugs? 10 A Yes. 11 Q Why? 12 A Well, like I said before, if you're 13 under the influence of drugs and you're in a manic 14 state, it could lead to excited delirium, as we 15 talked earlier. 16 Q When you say "a manic state," you're 17 referring to bipolar disorder? 18 A Not necessarily. You could have mania 19 without bipolar disorder. 20 Q Where did you learn that? 21 A Kent State University. 22 Q When you say, then, "mania," just give 23 me your definition of what would be considered 24 mania or manic behavior.</p>	<p>1 police officer, as you understand it, is a person 2 may be experiencing delusions? 3 A That could be a sign of mania or 4 schizophrenia. 5 Q And what about hallucinations? 6 A It's possible. Things present 7 themselves the same way in different mental cases. 8 Q In terms of trying to identify as a 9 police officer whether a person may be in a manic 10 episode or expressing signs of mania, what else 11 would you be looking for other than aggression, 12 agitation, racing thoughts, yelling for no 13 apparent reason, delusions or hallucinations? 14 A I probably don't think that most police 15 officers even label anything as mania. 16 Q I'm asking about you. 17 A Me? Then what's the question again? 18 Q The original question was -- was in 19 responding to a person who may be under the 20 influence of drugs. And your response was they 21 may be in a manic episode, may be experiencing 22 mania, and that's why it's important to determine 23 if they're on drugs in terms of using force; fair? 24 MR. LUTE: Objection.</p>
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<p>1 MR. LUTE: Objection. 2 Go ahead. 3 A There's a lot of different things that 4 are mania. You could be, you know, aggressive, 5 not aggressive, you could be yelling, you could be 6 having the thoughts in your head and acting out in 7 a different way. You could have delusions of 8 grandiose and exhibit those behaviors, think 9 you're invincible. Those are some examples. 10 BY MR. HILL: 11 Q A sign of mania, then, might be yelling? 12 A Yes. 13 Q And it might be yelling for no apparent 14 reason? 15 A Sometimes. 16 Q It might be a sign that a person has 17 hyperactive thoughts or behavior? 18 A Or anxiety, or it could be anything, 19 yeah. 20 Q A person under the effects of mania or a 21 manic episode may be agitated or appear agitated 22 for no apparent reason? 23 A Yes. 24 Q You said one of the signs of mania as a</p>	<p>1 Go ahead. 2 A I'm going to use whatever is necessary I 3 need to, to put them under control still, whether 4 they're using drugs or not. I would prefer people 5 not to be on drugs. 6 BY MR. HILL: 7 Q After a person has ingested drugs, you 8 would agree the body may be under extreme 9 physiological stress; true? 10 A Yes. 11 Q Additional stress resulting from force 12 can be dangerous; true? 13 A After being exacerbated by the drugs, 14 yes. 15 Q When you say "exacerbated by the drugs," 16 how about exacerbated by the force? 17 A It could be any number of things. 18 Q And that's because the force puts 19 additional stress on the body; true? 20 A It would. They could have also ran two 21 miles before we got there. 22 Q Which would put even more stress on the 23 body; correct? 24 A If we knew about it, yes.</p>

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<p>1 Q So another thing that you have to be 2 aware of as a police officer, trying to find out; 3 true? 4 A A lot of different things, yeah. 5 Q Had the person been running all over the 6 neighborhood; correct? 7 A It's possible. 8 Q Because running around the neighborhood 9 before encountering police could put additional 10 stress on the body; true? 11 A Yeah, but you might not know. 12 Q But if you do know, it's something you 13 have got to consider; correct? 14 A You have to consider everything. 15 Q And you have to consider it because this 16 person may have more stress already on the body 17 than a normal person; true? 18 MR. LUTE: Objection. 19 Go ahead. 20 A That's not really my concern. My 21 concern is their safety, our safety, and the 22 public's safety. 23 BY MR. HILL: 24 Q So when you said that there may be</p>	<p>1 A You still have to use whatever force 2 necessary, whether they're on drugs or not. 3 Q So what's the answer to my question? 4 A Which specific question? 5 Q So other than the excited delirium 6 directive, have you received any training on what 7 amount of force or how to use force on members of 8 the public who may be under the influence of 9 drugs? 10 A You mean other than the training that I 11 talked about earlier? 12 Q (Nods head.) 13 A Yes? 14 Q Yes. 15 A Not that I'm aware of. 16 Q In deciding what amount of force to use 17 on a member of the public, should officers 18 consider the size of the person? 19 A Yes. 20 Q Why? 21 A You would use more force to arrest 22 somebody that's fighting with you if they were 300 23 pounds. 24 Q How about with respect to the decision</p>
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<p>1 additional stress on the body because they have 2 been running around, what did you mean? 3 A It may be excessive stress on their 4 body, but I still have to do what's necessary to 5 protect everybody. 6 Q Individuals under the influence of drugs 7 may not be able to follow verbal commands; true? 8 A Yes. 9 Q They may not be able to follow police 10 orders; true? 11 A Yes. 12 Q They may not understand the roles of 13 police; true? 14 A Yes. 15 Q And in terms of the -- in terms of 16 training, have you received any training about how 17 to respond to members of our community who may be 18 under the influence of drugs other than the 19 excited delirium policy? 20 A Not that I'm aware of. 21 Q Other than the excited delirium policy, 22 have you received any training in terms of how to 23 use force on members of the public who may be 24 under the influence of drugs?</p>	<p>1 to use an electrical conducted weapon or a Taser? 2 Does the size of the person make any difference in 3 your mind? 4 A No. 5 Q When considering whether to use force on 6 a person, a reasonable officer should consider 7 whether the person is exhibiting signs of 8 increased physiological stress; true? 9 MR. LUTE: Objection. 10 Go ahead. 11 A We still have to do what is necessary as 12 far as excessive use of force or use of force at 13 all. 14 BY MR. HILL: 15 Q So is the answer no, it's not a 16 consideration that should factor into an officer's 17 decision to use force? 18 A All factors are considered in how much 19 force you use. 20 Q So how does a person's exhibiting signs 21 or showing signs of increasing physiological 22 stress factor into an officer's decision as to 23 whether to use force? 24 A There's no way for me to judge how much</p>



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<p style="text-align: right;">Page 109</p> <p>1 stress their body is under.</p> <p>2 Q So you said it's a factor. How is it a</p> <p>3 factor?</p> <p>4 A It's a factor that if they're fighting</p> <p>5 with us, then I'm going to use more force than if</p> <p>6 they weren't fighting with.</p> <p>7 Q Is that the only way it's a factor in</p> <p>8 your mind?</p> <p>9 A In my mind.</p> <p>10 Q Conditions that can increase</p> <p>11 physiological stress on the body include drug use;</p> <p>12 true?</p> <p>13 A Yes.</p> <p>14 Q They include exacerbations of mental</p> <p>15 illness; true?</p> <p>16 A Yes.</p> <p>17 Q They can include medical conditions like</p> <p>18 excited delirium; true?</p> <p>19 A Yes.</p> <p>20 Q They can include other medical crises as</p> <p>21 well; true?</p> <p>22 A Yes.</p> <p>23 Q For example, seizures and heart attacks</p> <p>24 and things like put stress on the body; true?</p>	<p style="text-align: right;">Page 111</p> <p>1 that effect, yes.</p> <p>2 Q And information to that effect would</p> <p>3 include has the person been running around. We</p> <p>4 talked about that; correct?</p> <p>5 MR. LUTE: Objection.</p> <p>6 Go ahead.</p> <p>7 A Whether they ran from their front door</p> <p>8 to the street or 14 miles, if we knew, then that</p> <p>9 might be a factor. But I'm still going to use</p> <p>10 whatever force necessary.</p> <p>11 BY MR. HILL:</p> <p>12 Q Is the person in a mental health crisis,</p> <p>13 that's something that can increase stress;</p> <p>14 correct?</p> <p>15 A Physiologically, yes, I suppose.</p> <p>16 Q And also is this person exhibiting signs</p> <p>17 of drug use; correct?</p> <p>18 A If I believe so, yes.</p> <p>19 Q And is this -- you said if you believe</p> <p>20 so.</p> <p>21 When you say "believe," you're talking</p> <p>22 about does this person exhibit signs or do you</p> <p>23 have information that would make you suspect this</p> <p>24 person is under the influence of drugs; true?</p>
<p style="text-align: right;">Page 110</p> <p>1 A Yes.</p> <p>2 Q A reasonable officer should attempt to</p> <p>3 decrease the stress response of such a person, not</p> <p>4 increase the amount of stress; true?</p> <p>5 A If possible.</p> <p>6 Q You would agree that when a police</p> <p>7 officer uses force, it can increase the stress</p> <p>8 response in the body; true?</p> <p>9 A I would assume it does.</p> <p>10 Q And increasing stress upon a person's</p> <p>11 body can cause serious injury or death; true?</p> <p>12 MR. LUTE: Objection.</p> <p>13 Go ahead if you know.</p> <p>14 A It's possible.</p> <p>15 BY MR. HILL:</p> <p>16 Q You're aware of it as a police officer;</p> <p>17 correct?</p> <p>18 A As to what would cause the death? Are</p> <p>19 you talking about more serious physical injury?</p> <p>20 Q I mean, you're aware as a police officer</p> <p>21 that increasing stress on a person's body can</p> <p>22 cause serious injury or death; true?</p> <p>23 A If I believe that they have serious</p> <p>24 stress to their body, if I have information to</p>	<p style="text-align: right;">Page 112</p> <p>1 A Well, of course I would want someone to</p> <p>2 tell me if they have been under drugs or for it to</p> <p>3 say methamphetamine across their forehead or</p> <p>4 something to that effect. But if I have no idea,</p> <p>5 but I suspect, I'm still going to use the same</p> <p>6 amount of force as necessary.</p> <p>7 Q Positional restraint asphyxia occurs</p> <p>8 when a person's body interferes with breathing;</p> <p>9 true?</p> <p>10 A Yes.</p> <p>11 Q This can be caused by a restriction of</p> <p>12 the chest's ability to expand; true?</p> <p>13 A Yes.</p> <p>14 Q It can be caused by any kind of pressure</p> <p>15 on the diaphragm; true?</p> <p>16 A Yes.</p> <p>17 Q It can be caused when a person's -- the</p> <p>18 position of a person's head obstructs the airway</p> <p>19 or breathing; true?</p> <p>20 A Yes.</p> <p>21 Q It can be caused when anything is in the</p> <p>22 mouth and it obstructs the airway; true?</p> <p>23 A I don't know.</p> <p>24 MR. LUTE: Objection.</p>

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<p style="text-align: right;">Page 113</p> <p>1 Go ahead.</p> <p>2 A I don't know.</p> <p>3 BY MR. HILL:</p> <p>4 Q Ever been taught that?</p> <p>5 A Positional asphyxia is, you know, a</p> <p>6 breathing issue. I guess if they were choking on</p> <p>7 something -- I don't think that's positional, so I</p> <p>8 don't know exactly where that question is going.</p> <p>9 Q Positional restraint asphyxia is a</p> <p>10 life-threatening medical condition; true?</p> <p>11 A It could be.</p> <p>12 Q It is; isn't it?</p> <p>13 A Well, there's positional asphyxia and</p> <p>14 some people don't die, so it could be.</p> <p>15 Q Asphyxia is the inability to breathe;</p> <p>16 true?</p> <p>17 A Yes, for a second or for five minutes.</p> <p>18 Q Any time a person's breathing is</p> <p>19 restricted, that's life threatening; correct?</p> <p>20 MR. LUTE: Objection.</p> <p>21 You can answer if you know.</p> <p>22 A It could be.</p> <p>23 BY MR. HILL:</p> <p>24 Q Positional restraint asphyxia can cause</p>	<p style="text-align: right;">Page 115</p> <p>1 whenever they restrain a member of the public;</p> <p>2 true?</p> <p>3 A Yes.</p> <p>4 Q There are risk factors for positional</p> <p>5 restraint asphyxia; true?</p> <p>6 A Yep. Yes.</p> <p>7 Q Being in a prone position is a risk</p> <p>8 factor for positional restraint asphyxia; true?</p> <p>9 A It's possible.</p> <p>10 Q Anything that causes a struggle while in</p> <p>11 a prone position increases the risk of positional</p> <p>12 restraint asphyxia; true?</p> <p>13 A It could.</p> <p>14 Q And that's because when a person</p> <p>15 struggles, it causes the muscles to need more</p> <p>16 oxygen devoted to them?</p> <p>17 A Yes.</p> <p>18 Q And you knew that as of September 8th,</p> <p>19 2015; correct?</p> <p>20 A Yes.</p> <p>21 Q Anything that causes the heart to race</p> <p>22 can increase the risk of positional restraint</p> <p>23 asphyxia; true?</p> <p>24 A I would assume.</p>
<p style="text-align: right;">Page 114</p> <p>1 death; true?</p> <p>2 A It can.</p> <p>3 Q That's something that's well known by</p> <p>4 police officers; true?</p> <p>5 A Yes.</p> <p>6 Q You knew about that before September</p> <p>7 8th, 2015?</p> <p>8 A Of course.</p> <p>9 Q Positional restraint asphyxia can cause</p> <p>10 the heart to beat improperly; true?</p> <p>11 A That, I don't know.</p> <p>12 Q When restraining an individual, police</p> <p>13 officers must actively assess the person to make</p> <p>14 sure they're restrained in a safe manner; true?</p> <p>15 A As much as possible.</p> <p>16 Q When restraining an individual, officers</p> <p>17 must be sure to make -- be sure to assess the</p> <p>18 person to make sure -- strike that.</p> <p>19 Officers have to be aware of the risk of</p> <p>20 positional restraint asphyxia any time they</p> <p>21 restrain a member of the public; true?</p> <p>22 A Repeat that question.</p> <p>23 Q Sure. Police officers have to be aware</p> <p>24 of the risk of positional restraint asphyxia</p>	<p style="text-align: right;">Page 116</p> <p>1 Q People who are suffering an acute mental</p> <p>2 health crisis are at a higher risk for positional</p> <p>3 restraint asphyxia; true?</p> <p>4 MR. LUTE: Objection.</p> <p>5 You may answer if you know.</p> <p>6 A That, I don't know.</p> <p>7 BY MR. HILL:</p> <p>8 Q People whose bodies are under increased</p> <p>9 physiological stress for any reason are at a</p> <p>10 heightened risk for positional restraint asphyxia;</p> <p>11 true?</p> <p>12 MR. LUTE: Objection.</p> <p>13 Go ahead.</p> <p>14 A That, I don't know.</p> <p>15 BY MR. HILL:</p> <p>16 Q You were never taught that here at</p> <p>17 Springfield Township?</p> <p>18 A Just, you know, if they're fighting you,</p> <p>19 you have to do -- they have to be in whatever</p> <p>20 position you need them to be in to control them.</p> <p>21 So I guess maybe I confused what you were looking</p> <p>22 for.</p> <p>23 Q I'm talking about risk factors for</p> <p>24 positional restraint asphyxia.</p>

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1 Anything that causes increased  
2 physiological stress on the body increases the  
3 risk of positional restraint asphyxia; true?  
4 A Yes.  
5 Q People who are suffering from a mental  
6 health crisis are at an increased risk for  
7 positional restraint asphyxia; true?  
8 A I don't know if there's a  
9 differentiation between a mental health person and  
10 not, in that position.  
11 Q People who are experiencing a condition  
12 sometimes described as excited delirium are at a  
13 higher risk for positional restraint asphyxia;  
14 true?  
15 MR. LUTE: Objection.  
16 You may answer if you know.  
17 A Same answer.  
18 BY MR. HILL:  
19 Q You don't know that?  
20 A Nope.  
21 Q You've never been taught that here at  
22 Springfield Township?  
23 A Not the different. Every person is  
24 treated the same, remember? I treat everybody the

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1 same, whether they're mental health, not mental  
2 health. We have to -- we have to get them under  
3 control no matter what.  
4 Q All I'm asking is you've never been  
5 taught here at Springfield Township that people  
6 who are experiencing a condition sometimes  
7 described as excited delirium are at a high risk  
8 of positional restraint asphyxia?  
9 A You just now said excited delirium, so  
10 that's different.  
11 Q I said that in the last question as  
12 well.  
13 A That's different.  
14 Excited delirium, they're already at  
15 risk for serious physical injury, if they're  
16 already in that state, not necessarily just mental  
17 health issues.  
18 Q So they were different questions asked.  
19 A Okay.  
20 Q Earlier I asked you whether people  
21 suffering from a mental health crisis or an acute  
22 psychotic breakdown are at a higher risk for  
23 positional restraint asphyxia, and you told me you  
24 didn't know; fair?

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1 A You just now added excited delirium,  
2 though, so I don't know which question you're  
3 asking.  
4 Q So listen to my question, okay?  
5 A I'm trying.  
6 Q People who are suffering from an acute  
7 psychotic breakdown, or a mental health crisis,  
8 are at a high risk for positional restraint  
9 asphyxia; do you agree with that or not?  
10 MR. LUTE: Objection.  
11 You may answer if you know.  
12 A As much as any other person.  
13 BY MR. HILL:  
14 Q There's nothing about being in the  
15 throes of a mental health crisis that in your mind  
16 increases the risk for positional restraint  
17 asphyxia?  
18 MR. LUTE: Objection.  
19 You may answer if you know.  
20 A I'm not a medical expert, so I can't  
21 answer that.  
22 BY MR. HILL:  
23 Q So it wouldn't influence anything about  
24 your decision as to how to restrain a person in

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1 the field?  
2 MR. LUTE: Objection. That's a  
3 different question.  
4 You may answer if you know.  
5 A I'm still going to do whatever is  
6 necessary to put them under control.  
7 BY MR. HILL:  
8 Q People who are experiencing a condition  
9 sometimes called excited delirium are at a high  
10 risk for positional restraint asphyxia; true?  
11 MR. LUTE: Objection.  
12 You may answer if you know.  
13 A As far as I know, as much as anybody  
14 else.  
15 BY MR. HILL:  
16 Q Anything that causes the muscles to  
17 contract severely increases the risk of positional  
18 restraint asphyxia; true?  
19 MR. LUTE: Objection.  
20 You may answer.  
21 A That's a medical thing and very  
22 specific, and I don't know that.  
23 BY MR. HILL:  
24 Q Nothing you've been trained about as a

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<p>1 police officer here at Springfield Township?</p> <p>2 A Not in that depth.</p> <p>3 Q The use of an electrical conducted</p> <p>4 weapon increases the risk of positional restraint</p> <p>5 asphyxia; true?</p> <p>6 MR. LUTE: Objection.</p> <p>7 Go ahead.</p> <p>8 A In who? Anyone?</p> <p>9 BY MR. HILL:</p> <p>10 Q Well, does it?</p> <p>11 A It cycles for five seconds to immobilize</p> <p>12 somebody, and then they can breathe just fine.</p> <p>13 Q So does the application of an electrical</p> <p>14 conducted weapon increase the risk of positional</p> <p>15 restraint asphyxia?</p> <p>16 MR. LUTE: Objection.</p> <p>17 You may answer if you know.</p> <p>18 A Not if you have control of the</p> <p>19 situation.</p> <p>20 BY MR. HILL:</p> <p>21 Q So does it or not?</p> <p>22 MR. LUTE: Objection.</p> <p>23 You may answer.</p> <p>24 A Like I said, not necessarily. It</p>	<p>1 given you her answer. That's it. Move on.</p> <p>2 BY MR. HILL:</p> <p>3 Q So as you sit here, based on your</p> <p>4 training, you can't say whether or not the</p> <p>5 application of a Taser or an electrical conducted</p> <p>6 weapon increases a person's risk of positional</p> <p>7 asphyxia?</p> <p>8 MR. LUTE: Objection.</p> <p>9 A Oh, my goodness. If you want to give me</p> <p>10 an example, I'll try to answer your question.</p> <p>11 Are they on a bed? Are they on the</p> <p>12 floor? Are they in a trailer on a couch? Are</p> <p>13 they reclining in a vehicle back in their seat?</p> <p>14 Are they sitting at this table?</p> <p>15 If you want to give me an example, I'll</p> <p>16 try to answer your question.</p> <p>17 BY MR. HILL:</p> <p>18 Q Earlier you said a police officer should</p> <p>19 assess the risk of positional restraint asphyxia</p> <p>20 whenever they restrain a member of the public.</p> <p>21 Do you remember agreeing to that?</p> <p>22 A Repeat it.</p> <p>23 Q Earlier you stated that a police officer</p> <p>24 should be aware of the risk of positional</p>
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<p>1 depends on if you have control of the situation or</p> <p>2 not.</p> <p>3 BY MR. HILL:</p> <p>4 Q So I'm just asking you. Does --</p> <p>5 MR. LUTE: You're asking an absolute</p> <p>6 question, and she's giving you an answer based on</p> <p>7 her experience. That's her answer.</p> <p>8 BY MR. HILL:</p> <p>9 Q Based on your training here at</p> <p>10 Springfield Township, does the application of an</p> <p>11 electrical conducted weapon increase a person's</p> <p>12 risk of positional restraint asphyxia?</p> <p>13 MR. LUTE: Objection.</p> <p>14 You may answer.</p> <p>15 A In what situation?</p> <p>16 BY MR. HILL:</p> <p>17 Q A person --</p> <p>18 A Are they standing? Are they in a car?</p> <p>19 Are they on a bed?</p> <p>20 MR. LUTE: She's telling you there's no</p> <p>21 absolute answer.</p> <p>22 MR. HILL: Well, she can answer, Mel.</p> <p>23 MR. LUTE: She's answered the question</p> <p>24 three times. You've asked it three times. She's</p>	<p>1 restraint asphyxia whenever they restrain a member</p> <p>2 of the public.</p> <p>3 Do you remember saying that?</p> <p>4 A Yes.</p> <p>5 Q So in terms of risk factors, how does</p> <p>6 the use of an electrical conducted weapon factor?</p> <p>7 A It only immobilizes them for five</p> <p>8 seconds. So are they stuck between a couch and a</p> <p>9 wall after the five-second cycle, or are they</p> <p>10 laying on the bed and they can sit right up?</p> <p>11 Q So would it make a difference if they're</p> <p>12 being restrained at the time?</p> <p>13 A Restrained how? Cuffs? Throwing them</p> <p>14 down on the ground to try to -- because they're</p> <p>15 fighting us or pushing them up against a wall?</p> <p>16 There could be a million different</p> <p>17 circumstances. And in most circumstances, no, it</p> <p>18 runs for five seconds and it's -- we can get them</p> <p>19 under control in most circumstances.</p> <p>20 Q I'm not saying if there's a direct cause</p> <p>21 between being tasered and positional restraint</p> <p>22 asphyxia.</p> <p>23 I'm asking you, when restraining a</p> <p>24 person, is one of the considerations whether a</p>



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<p style="text-align: right;">Page 125</p> <p>1 Taser has been used on them?</p> <p>2 A Every situation is considered in whether</p> <p>3 or not we believe that they can't breathe or not</p> <p>4 or whether we should use a Taser or not.</p> <p>5 Q So why -- in restraining a person, why</p> <p>6 is a Taser one of the things that you consider in</p> <p>7 terms of assessing their risk for positional</p> <p>8 restraint asphyxia?</p> <p>9 MR. LUTE: Objection.</p> <p>10 A I have never had a situation where</p> <p>11 tasing somebody kept them from breathing. That's</p> <p>12 all I can tell you.</p> <p>13 BY MR. HILL:</p> <p>14 Q A person --</p> <p>15 A I've been tased. I could breathe.</p> <p>16 Q Persons who are exposed to repeated</p> <p>17 applications of electrical conducted weapons are</p> <p>18 at a higher risk for positional restraint</p> <p>19 asphyxia; true?</p> <p>20 MR. LUTE: Objection.</p> <p>21 You may answer if you know.</p> <p>22 A There is different cases. How many</p> <p>23 times? Two cycles? Ten cycles? 30 cycles?</p> <p>24 BY MR. HILL:</p>	<p style="text-align: right;">Page 127</p> <p>1 BY MR. HILL:</p> <p>2 Q In your training.</p> <p>3 A If they were tased 30 times, 15 times, I</p> <p>4 would say that that would be a high risk.</p> <p>5 Q Anything less than 15 where the number</p> <p>6 of tasing would make a difference?</p> <p>7 MR. LUTE: Objection.</p> <p>8 You may answer. It's hypothetical. You</p> <p>9 may answer if you know.</p> <p>10 A It is. It's hypothetical.</p> <p>11 If I had somebody that, you know, had a</p> <p>12 knife in their hand and they were trying to stab</p> <p>13 themselves and the only way that I could get them</p> <p>14 to drop the knife or try to get them to drop the</p> <p>15 knife or to not charge somebody with a knife, if I</p> <p>16 had to tase them five times, but not in a row,</p> <p>17 giving them a couple of seconds of tasing to see</p> <p>18 if they're going to drop the knife, then I don't</p> <p>19 think that's excessive.</p> <p>20 Do I think ten is excessive? Maybe.</p> <p>21 But it's hypothetical. Depends on the situation.</p> <p>22 BY MR. HILL:</p> <p>23 Q Just so we're clear, I didn't ask you</p> <p>24 about at what point the number of times a person</p>
<p style="text-align: right;">Page 126</p> <p>1 Q At what point does it make a difference</p> <p>2 in your mind?</p> <p>3 MR. LUTE: Objection.</p> <p>4 You may answer if you know.</p> <p>5 A If it doesn't work the first time, I</p> <p>6 usually try a second time. If it doesn't work</p> <p>7 that time, I have to move on.</p> <p>8 BY MR. HILL:</p> <p>9 Q When you say "it doesn't work," are you</p> <p>10 saying the Taser malfunctions?</p> <p>11 A Not necessarily. It could be any number</p> <p>12 of things. The probes might not be connected. It</p> <p>13 may not have an effect on them because they have</p> <p>14 got this superhuman strength and they're</p> <p>15 impervious to the pain. One dart could have</p> <p>16 missed.</p> <p>17 Q So my question was: People who are</p> <p>18 exposed to repeated applications, meaning more</p> <p>19 than one, from an electrical conducted weapon are</p> <p>20 at a higher risk for positional restraint</p> <p>21 asphyxia; true?</p> <p>22 MR. LUTE: Objection.</p> <p>23 You may answer.</p> <p>24 A In my opinion?</p>	<p style="text-align: right;">Page 128</p> <p>1 has been tasered is excessive. My question was --</p> <p>2 A My opinion.</p> <p>3 Q -- are people who have been exposed to</p> <p>4 repeated applications of a Taser or an electrical</p> <p>5 conducted weapon at a higher risk for positional</p> <p>6 restraint asphyxia?</p> <p>7 MR. LUTE: Objection.</p> <p>8 You may answer if you know the answer to</p> <p>9 that question.</p> <p>10 A I do not know the answer to that</p> <p>11 question. I told you 30 times might be excessive.</p> <p>12 BY MR. HILL:</p> <p>13 Q Excited delirium is a life-threatening</p> <p>14 medical condition; true?</p> <p>15 MR. LUTE: Objection.</p> <p>16 Go ahead.</p> <p>17 A Yes.</p> <p>18 BY MR. HILL:</p> <p>19 Q People in a state of excited delirium</p> <p>20 need emergency medical attention as soon as</p> <p>21 possible; true?</p> <p>22 A When we know, yes.</p> <p>23 Q Pardon?</p> <p>24 A When you know, yes.</p>

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<p style="text-align: right;">Page 129</p> <p>1 Q Well, they need the attention 2 regardless? 3 A If we know they're in it. 4 Q So people in a state of excited delirium 5 only need medical attention when officers know 6 they are in excited delirium? 7 A Well, how would we know they're in 8 excited delirium? That's the question you're 9 asking. Is it excited delirium? How do we know 10 for sure? 11 Q Listen to my question, okay? I 12 understand you're getting frustrated. Just listen 13 to my question. 14 The question was: People in a state of 15 excited delirium need emergency medical attention 16 as soon as possible; true? 17 MR. LUTE: Objection. 18 Go ahead. 19 A If you say it exactly like that, yes, 20 they should get medical attention. 21 BY MR. HILL: 22 Q And you understood that as of September 23 8th, 2015; true? 24 A I know people in a state of excited</p>	<p style="text-align: right;">Page 131</p> <p>1 if we didn't know. 2 BY MR. HILL: 3 Q And it's important, then, for police 4 officers to use all the available information to 5 identify is this a crime or is this a medical 6 condition; fair? 7 MR. LUTE: Objection, in that the 8 question assumes it is either a crime or a medical 9 condition, excluding the option of it being both. 10 You may answer. 11 MR. HILL: Enough with the speaking 12 objections. 13 MR. LUTE: Do you understand the 14 question? 15 THE WITNESS: Yes. 16 MR. HILL: Can we refrain from the 17 speaking objections moving forward? 18 MR. LUTE: If the questions are clear, 19 yes. 20 MR. HILL: Make your objections. If 21 they are not, just make your objections. You 22 understand you're not permitted to make speaking 23 objections, Mel. 24 MR. LUTE: I understand.</p>
<p style="text-align: right;">Page 130</p> <p>1 delirium need medical attention, yes. 2 Q People in a state of excited delirium or 3 what people call excited delirium need medical 4 attention as soon as possible because they need 5 medical treatment; true? 6 A Yes. 7 Q Police are often the first individuals 8 contacted when a person is having a medical 9 emergency that some people call excited delirium; 10 true? 11 A Based on we get calls for it, yes. 12 Q Police officers may be the first person 13 to arrive on a scene for a person who may be 14 demonstrating signs of excited delirium; true? 15 A Yes. 16 Q Being in a state of excited delirium is 17 not a crime; true? 18 A True. 19 Q And that's because it's a medical 20 condition; true? 21 MR. LUTE: Objection. 22 Go ahead. 23 A If we know that's the case, yes. I 24 mean, we could mistake it for disorderly conduct</p>	<p style="text-align: right;">Page 132</p> <p>1 MR. HILL: I don't want you making the 2 record. 3 BY MR. HILL: 4 Q Do you need the question read back? 5 A No. 6 MR. HILL: Was there an answer? 7 THE REPORTER: No. 8 BY MR. HILL: 9 Q Then go ahead and answer. 10 A Repeat it. 11 Q You said that officers may mistake signs 12 of excited delirium as disorderly conduct; true? 13 A It's possible, yes. 14 Q And that's because some of the signs of 15 excited delirium may be behavior that's considered 16 even criminal? 17 A Yes. 18 Q People in a state of excited delirium 19 may engage in activity that looks like a crime, 20 true, like disorderly conduct? 21 A Usually it originates from a crime 22 before we figure out what it is. 23 Q When you say it usually originates from 24 a crime, what's your basis for saying that?</p>

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<p>1 A I mean, unless the only call we get is</p> <p>2 they're running down the street naked and they've</p> <p>3 run a mile down the road or something, then I</p> <p>4 would think right away, oh, I've got to get a</p> <p>5 squad there.</p> <p>6 Q Because running down the street naked is</p> <p>7 a big sign of either a severe mental health crisis</p> <p>8 or excited delirium?</p> <p>9 A Yeah, I don't know anybody that does</p> <p>10 that.</p> <p>11 Q I don't either.</p> <p>12 When a person is in a state of excited</p> <p>13 delirium, their pulse can race; true?</p> <p>14 A Yes.</p> <p>15 Q When a person is in a state of excited</p> <p>16 delirium, the person's body is in the state of</p> <p>17 extreme physical stress; true?</p> <p>18 A Yes.</p> <p>19 Q When a person is in a state of excited</p> <p>20 delirium, it's important that responders,</p> <p>21 including police officers, do everything they can</p> <p>22 to reduce the amount of stress on the body; true?</p> <p>23 MR. LUTE: Objection.</p> <p>24 You can answer.</p>	<p>1 excited delirium?</p> <p>2 A Yes.</p> <p>3 Q Confusion can be a warning sign of</p> <p>4 excited delirium?</p> <p>5 A Yes.</p> <p>6 Q Sometimes the removal of clothing --</p> <p>7 well, we already talked about that, didn't we?</p> <p>8 A Yeah.</p> <p>9 Q We don't need to go back over that.</p> <p>10 You were aware of these warning signs of</p> <p>11 excited delirium we just discussed as of September</p> <p>12 2015; true?</p> <p>13 MR. LUTE: Objection.</p> <p>14 Go ahead.</p> <p>15 A Yes, I've been trained on that for many</p> <p>16 years.</p> <p>17 BY MR. HILL:</p> <p>18 Q Are there certain populations who are</p> <p>19 considered to be at high risk for -- or higher</p> <p>20 risk for serious injuries or even death from</p> <p>21 electrical conducted weapons?</p> <p>22 A Not to my knowledge.</p> <p>23 Q Positional restraint asphyxia may</p> <p>24 exacerbate the condition of an individual who has</p>
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<p>1 A Like I said before, I don't know how</p> <p>2 much stress is on the body.</p> <p>3 BY MR. HILL:</p> <p>4 Q So in such a circumstance, where a</p> <p>5 person is in a state of excited delirium, should</p> <p>6 police officers do everything they can to reduce</p> <p>7 the amount of stress on the body?</p> <p>8 MR. LUTE: Objection.</p> <p>9 Go ahead.</p> <p>10 A If I believe they're in a state of</p> <p>11 excited delirium, I'm going to get the medical</p> <p>12 experts there as soon as possible.</p> <p>13 BY MR. HILL:</p> <p>14 Q Warning signs of excited delirium</p> <p>15 include psychomotor agitation; true?</p> <p>16 A Yes.</p> <p>17 Q They include disorientation?</p> <p>18 A Yes.</p> <p>19 Q They include bizarre behavior?</p> <p>20 A Yes.</p> <p>21 Q They include speech disturbances, like</p> <p>22 incoherent speech?</p> <p>23 A Yes.</p> <p>24 Q Hallucinations can be a warning sign of</p>	<p>1 received an electrical conducted weapon</p> <p>2 application; is that true?</p> <p>3 A Yes.</p> <p>4 Q And why is that?</p> <p>5 A Well, if they fall face first and</p> <p>6 they're on their belly for an extended period of</p> <p>7 time, that could be a problem, if, you know,</p> <p>8 they're not still trying to fight you.</p> <p>9 Q People can -- well, take a step back.</p> <p>10 Is it your understanding that just</p> <p>11 because a person can still struggle or move</p> <p>12 they're not at risk for positional restraint</p> <p>13 asphyxia?</p> <p>14 A It's my understanding that I still have</p> <p>15 to do what is necessary so that they don't hurt</p> <p>16 themselves or other people or us.</p> <p>17 Q No. My question is: A person can be</p> <p>18 able to struggle or squirm around but be at risk</p> <p>19 for positional restraint asphyxia; true?</p> <p>20 MR. LUTE: Objection.</p> <p>21 You may answer.</p> <p>22 A I would feel like if they're struggling</p> <p>23 they can still breathe or they wouldn't be moving.</p> <p>24 BY MR. HILL:</p>

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<p style="text-align: right;">Page 137</p> <p>1 Q At some point, they stop breathing;</p> <p>2 true?</p> <p>3 A If they're in positional asphyxia? Not</p> <p>4 always. They might be in that position for a few</p> <p>5 minutes and then you might realize what's going on</p> <p>6 and you turn them over and they start breathing</p> <p>7 again.</p> <p>8 Q Once a person stops breathing,</p> <p>9 positional restraint asphyxia has occurred; true?</p> <p>10 MR. LUTE: Objection.</p> <p>11 You may answer if you know.</p> <p>12 A Something has occurred that was</p> <p>13 detrimental to their well-being.</p> <p>14 BY MR. HILL:</p> <p>15 Q But I mean in terms of preventing</p> <p>16 positional restraint asphyxia, you need to do that</p> <p>17 before the person stops breathing; true?</p> <p>18 A You don't know when they're going to</p> <p>19 stop breathing. There's no way to know that. You</p> <p>20 don't know what's going on in their brain or their</p> <p>21 body.</p> <p>22 Q So positional asphyxia may exacerbate</p> <p>23 the condition of any individual who has received</p> <p>24 an electrical conducted weapon application. Do</p>	<p style="text-align: right;">Page 139</p> <p>1 BY MR. HILL:</p> <p>2 Q So how have you been trained on how to</p> <p>3 use a restraint technique following the</p> <p>4 application of an electrical conducted weapon?</p> <p>5 A As soon as we fire a Taser, any time, we</p> <p>6 are trained that as soon as that five-second cycle</p> <p>7 is over, and even if you can before, if you can</p> <p>8 stay away from the wires, that you need to try to</p> <p>9 get them in handcuffs to control them before that</p> <p>10 five seconds is over or right after the five</p> <p>11 seconds so you don't get shocked and then put</p> <p>12 yourself in danger. Then, of course, you would</p> <p>13 try to get them into a cruiser and get them</p> <p>14 contained some way.</p> <p>15 Q Anything else?</p> <p>16 A In regards to?</p> <p>17 Q A restraint technique following the</p> <p>18 application of an electrical conducted weapon.</p> <p>19 A After you discharge a Taser, you put</p> <p>20 them in handcuffs because you will be then</p> <p>21 arresting them, of course, because they resisted</p> <p>22 you in some way, and then you try to get them into</p> <p>23 the cruiser so you can take them to jail. So</p> <p>24 you're going to either -- if they're still</p>
<p style="text-align: right;">Page 138</p> <p>1 you agree with that?</p> <p>2 MR. LUTE: Objection.</p> <p>3 Go ahead.</p> <p>4 A Repeat that.</p> <p>5 BY MR. HILL:</p> <p>6 Q Positional asphyxia or a prone</p> <p>7 position -- let's take that back.</p> <p>8 Restraining a person in a prone position</p> <p>9 may exacerbate the condition of any individual who</p> <p>10 has received an electrical conducted weapon</p> <p>11 application; true?</p> <p>12 MR. LUTE: Objection.</p> <p>13 You may answer if you know.</p> <p>14 A Not necessarily.</p> <p>15 BY MR. HILL:</p> <p>16 Q I said may.</p> <p>17 A It's possible.</p> <p>18 Q It's a risk factor; right?</p> <p>19 A A lot of things are.</p> <p>20 Q It's something officers have to be</p> <p>21 trained on; true?</p> <p>22 MR. LUTE: Objection.</p> <p>23 You may answer if you know.</p> <p>24 A We have been trained on that.</p>	<p style="text-align: right;">Page 140</p> <p>1 fighting you, you're going to have to wait until</p> <p>2 you can control them. If they're not fighting</p> <p>3 you, they'll stand up and cooperate, then you put</p> <p>4 them in a cruiser.</p> <p>5 Q Any other training?</p> <p>6 MR. LUTE: Objection.</p> <p>7 You may answer.</p> <p>8 A If they're cooperating, you will get</p> <p>9 them out of the scene, so they're not causing a</p> <p>10 disturbance anymore.</p> <p>11 BY MR. HILL:</p> <p>12 Q Anything else?</p> <p>13 A That's basically it.</p> <p>14 Q And you're getting -- after you've used</p> <p>15 a Taser on a person, you're getting them into a</p> <p>16 cruiser to take them to jail?</p> <p>17 A Well, after they have the probes taken</p> <p>18 out.</p> <p>19 Q There's a use of force policy that you</p> <p>20 have. It's Exhibit 10 in that collection of</p> <p>21 documents.</p> <p>22 A That we call the squad after we tase?</p> <p>23 That one?</p> <p>24 Q No. Just wait until you pick up the</p>



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1 actual document.  
2 A Got it.  
3 Q I've taken a number of depositions over  
4 the last week, I think as you know.  
5 A I'm sure you have.  
6 Q Everybody has stated that Exhibit 10,  
7 that you have there in front of you, is the use of  
8 force policy that was in effect as of September  
9 8th, 2015.  
10 Do you have any reason to disagree with  
11 that testimony?  
12 A Not that I know of. This is use of  
13 deadly force, weapons requalification.  
14 Q Are you aware of any --  
15 A There's the use of force -- well, 1214  
16 is use of force, but it doesn't say it's deadly.  
17 I guess what's the question?  
18 Q Well, what are you looking at?  
19 A It says, "Use of Deadly Force and  
20 Weapons Requalifications."  
21 Q When's the last time you saw that  
22 document, Exhibit 10, before today?  
23 A I couldn't tell you exactly when. We've  
24 been trained on policies my whole career,

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1 obviously.  
2 Q So can you give me an idea of the last  
3 time you saw that document, Exhibit 10?  
4 A We're given the Taser use of force every  
5 Taser training we have. This is deadly force. I  
6 probably haven't reviewed it for the deadly force  
7 one for a couple of years.  
8 Q And is it your understanding that  
9 Exhibit 10 that you have in front of you applies  
10 only to deadly force?  
11 MR. LUTE: Objection.  
12 You may answer.  
13 A It says, "Use of Deadly Force and  
14 Weapons Requalifications."  
15 BY MR. HILL:  
16 Q So is your answer yes?  
17 A It's just the deadly force.  
18 Q So is your answer yes, that's just the  
19 deadly force policy?  
20 A That's what it appears to be.  
21 Q On September 8th, 2015, were you working  
22 the eight a.m. to eight p.m. shift?  
23 A Yes.  
24 Q And do you remember where you were at

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1 when information came in over dispatch regarding  
2 Jordn Miller?  
3 A I was on an arrest, but I don't know  
4 where I was. I had somebody under arrest.  
5 Q Did you have somebody in your cruiser?  
6 A Yeah, I believe so. I think it was a  
7 summons. It may have been for disorderly conduct,  
8 but I can't remember for sure.  
9 Q So were you serving a warrant? Is that  
10 what it was?  
11 A I don't believe it was a warrant, but  
12 I'm not sure exactly. I'd have to go back and  
13 look. I never have looked to see what I was, you  
14 know, arresting somebody for. I just know that I  
15 was clearing an arrest to back them up.  
16 Q I just wanted to know what you were  
17 doing.  
18 A I wish I knew exactly. I was arresting  
19 somebody. That's all I know.  
20 Q And were you arresting somebody because  
21 you saw them do something, or were you serving a  
22 warrant or --  
23 A I don't remember. It's been a few  
24 months ago.

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1 Q Do you remember where you were, like  
2 what part of town?  
3 A I was probably centrally located in the  
4 middle of the township somewhere. I know I wasn't  
5 out a real long distance away, like in Arlington  
6 or anything. But I don't remember exactly now.  
7 Q So had you completed this arrest when  
8 the call came through?  
9 A When the call came out, I remember  
10 trying to wrap it up quickly, because my brain was  
11 then with them in trying to back them up, because  
12 I didn't know how far away backup was.  
13 Q When you say "with them," are you  
14 talking about Officers Scherer and Holsopple?  
15 A Yes.  
16 Q So when you say, "wrap it up quickly,"  
17 what did you do?  
18 A If I was summoning the person -- I  
19 didn't take them to jail, obviously, because I  
20 would have been coming from the Summit County  
21 Jail. So I had to have given them a summons for  
22 something, released them where I was at, and I  
23 went on my way to the call, which originally went  
24 out on Milo White.

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1 Q So do you know how far you were from  
2 Milo White when this call came through?  
3 A No, I don't know where I was.  
4 Q And when the call came through, were you  
5 in your car or standing outside of your car?  
6 A I don't remember that either.  
7 Q Were you with this individual that you  
8 were arresting?  
9 A All I remember from that arrest, because  
10 that's not where my focus was that day, was  
11 clearing with a 21, and then I was 25 to them. So  
12 I was releasing a prisoner and on my way to them  
13 to back them up. That's all I remember from that  
14 day prior to this event.  
15 Q I'm just saying, when you say "releasing  
16 a prisoner," did you have your prisoner with you?  
17 A Yes.  
18 Q Okay. So when the call came through,  
19 did you have him in your car?  
20 A I don't remember that. I was with him  
21 one way or the other.  
22 Q You just -- there's no way for you to be  
23 able to tell right now?  
24 A No.

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1 Q And there's no way for you to be able to  
2 identify with any degree of accuracy where you  
3 actually were in the community when this call came  
4 through regarding Jordn Miller?  
5 A No, unless you have the arrest report  
6 and refresh my memory. But other than that, no.  
7 Q Do you mean the arrest report of this  
8 other individual?  
9 A Right.  
10 Q Do you remember this other individual's  
11 name?  
12 A No.  
13 Q So my understanding is there are logs  
14 that officers here at Springfield Township use  
15 during the course of the day to hand write  
16 information?  
17 A Yes.  
18 Q And these are -- are they just lined  
19 paper, basically?  
20 A Yes.  
21 Q Would you have been keeping a log on  
22 September 8th, 2015?  
23 A Oh, it just depends.  
24 Q On what?

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1 A On just different factors.  
2 Q Well, are you supposed to maintain a  
3 log?  
4 A The chief -- yes, at the time, the chief  
5 was kind of lax on having sergeants do logs. So  
6 if my patrolmen were doing logs, some days I  
7 didn't do them or if I didn't go to any calls. If  
8 they'd go to one call, I might not have even done  
9 it. If I went to ten calls, I would do a log  
10 normally.  
11 It's been enforced now with the new  
12 chief, and we do them all the time.  
13 Q And the new chief is David Hoover?  
14 A Yes.  
15 Q So David Hoover is enforcing the  
16 requirement that patrol officers and sergeants  
17 complete a daily log?  
18 A Yes.  
19 Q And when Chief Smith was the chief, you  
20 said there was lax enforcement?  
21 A Uh-huh, yes.  
22 Q Was there any enforcement? Meaning were  
23 you ever taken aside and said, "Sergeant Moore,  
24 you don't have a log for today"?

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1 A No, not like that. I mean, he may have  
2 mentioned it in passing to the sergeant, like,  
3 "Hey, I want you guys to do a log," or, "I  
4 couldn't find your log for this day," or something  
5 to that effect.  
6 Q What did you do with your logs when they  
7 were completed?  
8 A When we complete the logs, we put them  
9 in the data entree office in a bin.  
10 Q And then what happens to them?  
11 A Data entry is supposed to file them by  
12 date.  
13 Q Have you ever seen a log for your  
14 activities on September 8th, 2015?  
15 A I don't remember if I did a log that  
16 day.  
17 Q But my question is: Have you ever seen  
18 from anyone a copy of the log?  
19 A Not to my knowledge.  
20 Q And if I wanted to find out -- so if you  
21 had created a log, though, it would have gone to  
22 data entry?  
23 A Yes.  
24 Q There would be a record of it?

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1 A Right. Well, can I qualify that?  
2 Q Sure.  
3 A Things come up missing in the police  
4 department all the time. So I don't know. They  
5 get misplaced. It happens with reports, too.  
6 So, yes, generally, it should be there.  
7 But people do take things, look at them, and then  
8 they get thrown away if they're left on a table  
9 somewhere.  
10 Q When you said "reports," are you talking  
11 about police reports?  
12 A All kinds of reports.  
13 Q Tell me what you mean by reports going  
14 missing. I'm not in law enforcement, so --  
15 A I might fill out just like a probable  
16 cause form and accidentally set it on a desk in  
17 patrol or put it in a box, or they might set it  
18 down on a desk somewhere and someone says, oh, why  
19 is someone leaving all this paper here, and then  
20 they shred it. So --  
21 Q Is that anything that anybody -- the new  
22 chief here has addressed?  
23 A I mean, they don't necessarily know. I  
24 mean, it's just someone going, oh, I can't find my

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1 personal identifiers form, I put it on this table,  
2 where did it go? I don't know, I don't know. And  
3 then somebody shredded but is surely not going to  
4 go, oh, I shredded that five minutes ago.  
5 Q Any other kind of incidents of reports  
6 or documents just kind of going missing here?  
7 A No.  
8 Q So there should be at least  
9 documentation from -- from whatever was going on  
10 with this arrest or prison release?  
11 A Through dispatch, yes.  
12 Q But I mean, there should also be -- do  
13 you complete any documentation?  
14 A Whether I did a log that day, is what  
15 I'm assuming you're asking, I don't remember  
16 specifically. If I didn't, all of my information  
17 would be at dispatch, if they recorded it.  
18 Q When you release a prisoner, do you have  
19 to -- is there a form here to demonstrate that the  
20 prisoner is not in your custody any longer?  
21 A I would have done an arrest report. And  
22 at the end of it, if it was a summons, even for a  
23 warrant, it would say such and such had a warrant,  
24 they were summonsed and released.

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1 Q And then you would file that?  
2 A Yes.  
3 Q So there would be a copy?  
4 A Yes.  
5 Q When you got -- when you heard this call  
6 come through dispatch, did you communicate at all  
7 with any of your fellow officers, Officer  
8 Holsopple or Scherer?  
9 A I went 2510, which means I was on my way  
10 to assist them, to the Milo White call. So at  
11 time it was just on Milo White still, and I was  
12 heading towards that direction.  
13 Q Did you give your location?  
14 A Probably not.  
15 Q Did you know the location at that time  
16 of either officers Holsopple or Scherer when you  
17 gave the 2510?  
18 A Where they were coming from, you mean?  
19 No.  
20 Q There was no communication -- well, take  
21 a step back.  
22 Before you got to 1019 Abington, where  
23 Jordn Miller eventually was, there was no plan  
24 being communicated between either you, Officer

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1 Scherer and Officer Holsopple over the radio in  
2 terms of how to approach the scene; is that fair?  
3 A That's fair, yes.  
4 Q Did you activate your lights at any time  
5 when responding to either 909 Milo White Drive or  
6 1019 Abington?  
7 A I don't remember if I had my lights  
8 activated or not.  
9 Q If you did, it would have activated the  
10 dash cam; correct?  
11 A It would have.  
12 Q And have you ever -- and are you  
13 required to save dash cam information?  
14 A I'm sure the Sunshine Laws say how long  
15 you're required to keep it, but I don't know what  
16 those laws are. I don't deal with the dash cam  
17 video.  
18 Q How about in an event like this, where  
19 Jordn Miller is eventually hospitalized after  
20 interacting with the police?  
21 Would you have saved any dash cam video?  
22 MR. LUTE: Objection.  
23 You may answer.  
24 A I don't know if there was any dash cam

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1 video on the supervisor's vehicle. There's four  
2 -- it's one, two, three and four, on the lights.  
3 I could have even, if you use the  
4 first -- the number one, you know, your flashers  
5 go on. Number two, the rotators go on. Number  
6 three, additional lights go on. And if you hit it  
7 all the way, it automatically turns on the sirens.  
8 A lot of times the supervisors don't go  
9 all the way over to four where the siren comes on  
10 because it scares the death out of people that are  
11 right there next to you. So if you want to get a  
12 block or two away, you know, you might turn it all  
13 the way on to four.  
14 If I was close, I may have only turned  
15 it on to three because I didn't need the sirens,  
16 there was nobody in front of me.  
17 I don't remember having my lights on at  
18 all that day, actually, and I wasn't pointing in  
19 that direction. I was actually, from Delaware,  
20 pointing up towards Sadler and on Abington and  
21 towards Crestline. So more in a south position,  
22 southeast. So I wasn't facing here. I was facing  
23 this way.  
24 BY MR. HILL:

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1 Q You're pointing to a photograph of the  
2 scene?  
3 A Yes.  
4 Q Can you just hold that up for a second?  
5 You said I wasn't pointing here, I was  
6 pointing there. Just so it's clear later on.  
7 A Well, if that was a house --  
8 Q Actually, hold it up for the camera.  
9 A Oh, I'm sorry.  
10 The street is up here, and I'm facing  
11 this direction. I'm facing south. Southeast even  
12 a little bit. But I'm facing this direction,  
13 parked on the street. You know, where this is the  
14 driveway, I would be facing the opposite  
15 direction.  
16 So if I had my lights on, I would be  
17 recording this way, anyhow. It would never have  
18 been up in the driveway where any of the events  
19 happened.  
20 Q My question was just did you turn on  
21 your lights?  
22 A Like I said, I don't remember. I don't  
23 believe so, but I'm not one hundred percent sure.  
24 Q Were you ever --

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1 A I definitely probably didn't have them  
2 on when I got there.  
3 Q Do you remember how fast you were  
4 driving when going to 1019 Abington?  
5 A No.  
6 Q Is that -- the speed of your response,  
7 is that something that would have been captured by  
8 the dash cam?  
9 A It depends. We have several different  
10 dash cameras. And I don't deal with the dash  
11 cameras or the recordings at all, so -- that's my  
12 understanding, but I don't know for sure. I've  
13 never had to -- I've never been involved with that  
14 download or anything.  
15 Q Were you ever asked by anyone  
16 investigating the events involving Jordn Miller  
17 whether your dash camera captured anything that  
18 day, on September 8th, 2015?  
19 A That would be the investigators going  
20 back to look if that camera was operating at that  
21 time or not. Back then, the cameras would get  
22 full, and they'd have to change out. At the time  
23 I think they were even DVDs -- not DVDs. VHS  
24 tapes even. So we've changed dash cameras. I

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1 don't know which one we have. But I wasn't in  
2 charge of the dash cameras at all. The  
3 investigators would have requested all that. I  
4 wasn't involved in that at all. But if there was  
5 dash camera, they would have it.  
6 Q I'm just asking: Did anybody ever come  
7 to you and ask you?  
8 A I can't remember specifically.  
9 Q Do you have any memory of that  
10 happening?  
11 A No. Of anybody asking me?  
12 Q That's my only question.  
13 A Huh-uh.  
14 Q Did anybody ever ask you -- so no? You  
15 said huh-uh. So no?  
16 A No, no.  
17 Q Did anyone ever ask you whether your  
18 sirens or lights were on in your cruiser as you  
19 responded?  
20 A I don't remember.  
21 Q Are you, not at the moment as we sit  
22 here, but are your officers here wearing body  
23 cameras now currently at Springfield Township?  
24 A Yes.



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1 Q And when did that begin?  
2 A I don't know the date. Detective  
3 Lombardi was in -- put that on. He would know.  
4 Q Can you show us -- because you've got  
5 your uniform on today; correct?  
6 A Yes.  
7 Q This is the same uniform you wear in the  
8 field?  
9 A Yes.  
10 Q You would be on duty today?  
11 A Yes.  
12 Q Can you show us where the body camera  
13 that you wear is located?  
14 A It's right here.  
15 Q Is that actually the body camera?  
16 A No, this is a clip for the body camera.  
17 Q Okay.  
18 A Detective Lombardi was downloading it  
19 this morning.  
20 Q Do you still have a radio that you use?  
21 A Uh-huh, yes.  
22 Q And as of September 8th, 2015, did you  
23 have the lapel radio?  
24 A Yes.

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1 Q Have you had any Taser uses or  
2 electrical conducted weapon uses?  
3 A Yes.  
4 Q Since you've had the body camera?  
5 A Since the body camera? I don't remember  
6 if it's since the body camera. I don't believe  
7 so.  
8 Q And I'm going to ask you a question that  
9 I've asked everybody, okay, as police officers.  
10 How tall are you?  
11 A Oh, five four and a half.  
12 Q How much do you weigh?  
13 A Oh, no, you didn't.  
14 MR. LUTE: That's why he prefaced it the  
15 way he did.  
16 BY MR. HILL:  
17 Q That's right. I have got to be careful.  
18 A Do you know what? When I go to the  
19 doctor -- and I just went last week, as I told  
20 you -- I turn around, and I literally face the  
21 opposite direction. So the last time I checked --  
22 Q Let's do it this way. Nothing about how  
23 much you weigh now. How much did you weigh back  
24 on September 8th, 2015?

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1 A Oh, my gosh. I don't know. Like maybe  
2 175.  
3 Q Okay.  
4 A I'm going to guess.  
5 Q Okay. And were you wearing body armor  
6 on September 8th, 2015?  
7 A No.  
8 Q Were you wearing a belt with all your  
9 gear?  
10 A Yes.  
11 Q And Officer Scherer told me those can be  
12 pretty heavy, like 15 pounds?  
13 A Maybe.  
14 Q Is that about how much you expect them  
15 to weigh?  
16 A I wouldn't have thought -- yeah, between  
17 ten and 15 maybe. I never find it heavy like  
18 everybody else, so I don't know.  
19 Q Do you work out?  
20 A Yeah, I do.  
21 Q What do you do to work out?  
22 A I actually just started working out  
23 again, I just want to say. I do now. I didn't  
24 back then. Since I had twins, I didn't work out

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1 for years. So I felt it was necessary, so I got a  
2 membership so that I can bring that weight down.  
3 Q Do you have Exhibit 6 in front of you?  
4 A Yep.  
5 Q If you look at Exhibit 6, there's like a  
6 cover page that says use of force report?  
7 A Yes.  
8 Q And then if you go to page -- it would  
9 be page 3. It's the one mostly blank.  
10 A Uh-huh, yes.  
11 Q And at the bottom it says, "Officer  
12 Scherer," number 152?  
13 A Yes.  
14 Q And then it says, "Sergeant Moore, 134"?  
15 A Yes.  
16 Q And then it's got a time of 22:15?  
17 A Yes.  
18 Q So that would be 10:15 p.m.  
19 A Yes.  
20 Q Officer Scherer testified that that's  
21 the time he believed this was completed, finished.  
22 Is that consistent with your memory?  
23 A This time here?  
24 Q Yes, the 22:15.

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1 A That's probably the time that I checked  
2 the use of force. But I didn't check the Taser.  
3 Q No, that's what I mean. The time the  
4 use of force report was completed?  
5 A Well, that's the time I checked it. So  
6 I don't think that there's a time where he writes  
7 when he's actually writing it.  
8 Q Right, he doesn't.  
9 A That's the time I checked it.  
10 Q Okay. And when you checked it, do you  
11 check it to make sure it's accurate?  
12 A Yeah, apparently.  
13 Q Okay. It's not a trick question. I  
14 just want to make sure that you --  
15 A No. I'm just -- I'm surprised that I  
16 checked it, because some of them -- usually it's  
17 this, front and back. It's not a separate page  
18 with this checked by, unless that's the Taser form  
19 I'm confusing it with that I don't check.  
20 Q Well --  
21 A This isn't like normally how it is.  
22 It's a double-sided page, so this is just throwing  
23 me off how this is, but --  
24 Q Well, you signed the use of force report

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1 that was completed by Officer Scherer; correct?  
2 A That day, I guess. My signature is  
3 there.  
4 Q And when you sign the use of force  
5 report, you check it to make sure that it's  
6 accurate; right?  
7 A Where are the originals of these?  
8 Q I get what I get. So when you say,  
9 "Where are the originals," what do you mean?  
10 A The chief's -- I guess the chief's --  
11 the chief keeps a file, I'm sure, of use of force  
12 reports.  
13 Q And why do you want to know where the  
14 original is?  
15 A Well, I just don't -- I don't know if  
16 they were just copied this way. I would assume  
17 that's why they're not double-sided. But I don't  
18 want to swear to something that looks different  
19 than what I actually checked. But if you want to,  
20 in general -- you know, I agreed with his  
21 information for the tasing for that day, so.  
22 Q So I don't have access to other files  
23 here at the department. I ask for documents, and  
24 I get what they give me.

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1 A Right. I mean, I'm sure they're copied  
2 in different ways, but --  
3 Q And this is what I received.  
4 In terms of your signature on page 3 of  
5 Exhibit 6 at the bottom, that is your signature;  
6 correct?  
7 A Yes, uh-huh.  
8 Q And at the top, it says, "Explain reason  
9 for use of force, type of force and areas of the  
10 body on which force was used." Correct?  
11 A Yes.  
12 Q So when you say about it being  
13 double-sided, are you saying that -- so page 1 of  
14 Exhibit 6 has kind of like a cover sheet that  
15 somebody created.  
16 A Well, yes.  
17 Q Okay? So are you saying that usually  
18 page 2 and page 3 are one double-sided document?  
19 A I guess this one and this one are a  
20 double-sided document. But what I was wondering  
21 is were these notes attached at the time.  
22 Q And just so we're clear on the record,  
23 when you said "this" and "this," just describe  
24 what you're looking at.

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1 A This is usually the front. This is  
2 usually the back. Normally, with our new system,  
3 we can't type on this. It didn't let us type on  
4 that before.  
5 So you can see my signature on those  
6 pages, and I just wanted to see the original to  
7 see if these invest notes were on there, because I  
8 didn't have time to read these invest notes, so I  
9 have no idea, because my name is not on them. So  
10 I'd have to -- are these the -- our original  
11 invest notes, then? Are they the detective's  
12 invest notes? Are they Bubba's invest notes -- or  
13 Officer Scherer's invest notes?  
14 Q I don't know. Can you tell?  
15 A I would have to see the original. I  
16 mean, this is not the original. These are copies.  
17 But that's my signature. And like I said before,  
18 I agree with the tasing, so --  
19 Q But here's my question: When it says,  
20 "Checked by Sergeant Moore," what are you checking  
21 as the supervisor?  
22 A Well, these are our invest notes. These  
23 must have been printed out before we had OHLEG.  
24 So I'm checking the entire use of force report.

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1 Q Attached to that is information that  
2 Officer Scherer provided that -- under a document  
3 that says, "Use of Force Report." Correct? It's  
4 page 2 of Exhibit 6.  
5 A Yes, that's the use of force report.  
6 Q And when it says "checked by," that's  
7 part of what you were checking; correct?  
8 A Yes.  
9 Q And in fact, under social security  
10 number for Jordn Miller, that's your handwriting;  
11 correct?  
12 A That is my handwriting.  
13 Q So you would have reviewed this document  
14 before you signed off on it as the supervisor;  
15 true?  
16 A Yes.  
17 Q And you wouldn't have signed off on it  
18 unless you agreed with it; true?  
19 A Correct.  
20 Q That was it.  
21 A Okay.  
22 Q The invest -- you call them the invest  
23 notes?  
24 A Yes.

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1 Q That are -- those are the investigative  
2 notes that were created by you, Officer Holsopple  
3 and Officer Scherer; correct?  
4 A I see that now, yes.  
5 Q And these are not -- at the bottom, they  
6 would be page 4, 5 and 6 of Exhibit 6, correct,  
7 would be the investigation notes?  
8 A 4, 5 and 6, yes.  
9 Q They don't have any kind of signature at  
10 the bottom?  
11 A These don't. These were probably our  
12 originals before they were entered by data entry  
13 into the computer.  
14 Q So they look like they're typed to me.  
15 A They are.  
16 Q So when you say these were the originals  
17 before they were input by data entry, what does  
18 that mean?  
19 A We used to duplicate the work before we  
20 had OHLEG. We would type them, and then they  
21 would type the exact same thing. It was double  
22 the work. But it was word for word.  
23 Q So in terms of the investigative notes,  
24 you would have created Exhibit 6, page 4, 5 and 6,

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1 the three of you, on a computer?  
2 A Yes.  
3 Q And then you would have, what, printed  
4 it?  
5 A We would have printed it off and had it  
6 checked and then sent it to data entry, to that  
7 supervisor who checked those notes.  
8 Q So there was another supervisor who  
9 checked investigative notes?  
10 A Well, if it was my investigator note or  
11 I was involved in it, somebody else would check  
12 it. I couldn't check my own, if I was involved in  
13 it.  
14 Q So if you look at Exhibit 12 --  
15 A Yes.  
16 Q -- at the bottom it states, "Checked by  
17 Smith." Right?  
18 A Yes.  
19 Q So that's Chief John Smith?  
20 A Yes, it is.  
21 Q So Chief John Smith was the person  
22 checking the investigative notes that the three of  
23 you created?  
24 A Yes.

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1 Q Which is Exhibit 12?  
2 A Yes.  
3 Q And in terms of your understanding of  
4 the timing of the creation of what is attached to  
5 Exhibit 6 here, you would have typed this out,  
6 printed it out, handed it to Chief Smith, he would  
7 have checked it and then given it to data entry to  
8 retype it?  
9 A Yes.  
10 Q So the times -- there are times listed  
11 at the bottom of each page; correct?  
12 A Yes.  
13 Q And my understanding through the  
14 depositions in this case, and perhaps I'm wrong,  
15 but is that the timing at the bottom of each page  
16 reflects the time that that page was completed; is  
17 that your memory?  
18 A It's sometime during the time we were  
19 completing the report. Sometimes an officer might  
20 type the first page and then look at the time real  
21 quick and -- because I don't know why there's even  
22 a time there, and then put that time. And then at  
23 the bottom of the next page -- because you have to  
24 clear it off. The way our computers work, you

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<p style="text-align: right;">Page 169</p> <p>1 can't continue it on for some reason, and before 2 it was even worse than it is now. And then they 3 might forget what time they put on the first one 4 and just put whatever time it is now on the watch. 5 So there's no telling what time period 6 during typing that, you know, it's being typed. 7 It's some point between that time and that time. 8 It may have started at that time. It 9 may have ended at that time. That could have been 10 the time that page was completed, you know. 11 Q No way to know? 12 A No way to know. There's no policy for 13 that specifically. 14 Q And there are three different times, one 15 for each page of Exhibit 6, page 4, 5 and 6. 16 So the time on page 4 is 20:30. The 17 time on page 5 is 21:30. The time on page 6 is 18 22:00; correct? 19 A Yes. 20 Q So at least we know this document was 21 being worked on for an hour and a half? 22 A Basically. 23 Q But we don't know anything else? 24 A No. And this is, you know -- I mean, we</p>	<p style="text-align: right;">Page 171</p> <p>1 A Yes. 2 Q And Chief Smith testified that he was 3 back there while this was happening? 4 A For part of it. 5 Q And did Chief Smith have questions for 6 you while you were creating this, or was he just 7 listening? 8 A He was only back there briefly to ask us 9 what happened and was everybody okay, and, you 10 know, Officer Scherer had gotten bitten, went to 11 the hospital, came back, is he okay. Then there 12 was the hepatitis incident, so he was there for 13 that. So he's kind of in and out throughout the 14 night. I can't tell you if he was there the 15 entire time -- you know, when I was doing the 16 invest notes, because I know he wasn't. He 17 couldn't have been back there for much of that at 18 all. It was just a basic like, hey, what 19 happened. Then he would go out and do his thing 20 and then maybe come back and check on us and make 21 sure we were doing okay. 22 Q Were you ever -- well, let's take a step 23 back. 24 In terms of your discussions with Chief</p>
<p style="text-align: right;">Page 170</p> <p>1 had to go to the bathroom, you know, and that kind 2 of thing. So I mean, it would be about that time. 3 There's no way to know exactly. 4 Q On page 2 -- I'm sorry. On page 3 of 5 Exhibit 6, the time that you signed this document 6 is 22:15? 7 A Which one? 8 Q Page 3 of Exhibit 6. It's the Use of 9 Force report you had. 10 A Oh, six. I signed it at 22:15, yes. 11 Q Right. So you would have completed the 12 investigative notes, and then Officer Scherer -- 13 and then you signed off on Officer Scherer's use 14 of force report? 15 A It was all being worked on at the same 16 time, so -- 17 Q On different computers? 18 A Yeah, we had two computers back there, 19 so I know I was on one for sure, and he must have 20 been on another one. 21 Q And my understanding is you guys were 22 all -- the officers were discussing the 23 information out loud and you were actually typing 24 it for everyone?</p>	<p style="text-align: right;">Page 172</p> <p>1 Smith on September 8th, 2015, the day of the event 2 -- 3 A Uh-huh, yes. 4 Q -- what you just described is kind of 5 Chief Smith checking in, saying, hey, is everybody 6 okay, those types of conversations. 7 Is that the extent of your 8 communications with him that day, for the most 9 part? 10 A Once we were back at the office, I mean, 11 we obviously told him the whole situation, what 12 happened. And you know, he asked us if we were 13 okay. We said that we were. What did Jordn do, 14 you know? And we explained to him. And you know, 15 he's the chief. He was just asking general 16 questions, make sure everything was, you know, on 17 the up-and-up kind of thing. And then he checked 18 our invest notes and -- 19 Q And when he asked you questions, my 20 understanding is the three of you were together? 21 A Yeah. I mean, we walked in and out. I 22 mean, I don't know if somebody went to the 23 bathroom or ate or got something to drink. 24 But, you know, in general, he did talk</p>



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1 to us when we all three were in the office. He  
2 probably talked to us when it was just me in the  
3 office, you know.  
4 There was a time when Bubba was out by  
5 the -- Officer Scherer was out by the lake and,  
6 you know, I was out there, so the chief was in  
7 with Officer Holsopple. I mean, this was -- went  
8 on for hours, so --  
9 Q Do you remember what the discussions  
10 were when it was just you and Chief Smith as  
11 opposed to when the three of you -- when the four  
12 of you were all together?  
13 A No, I don't remember anything specific.  
14 Q Were you ever interviewed by any  
15 detectives in this case?  
16 A I don't know about interviewed. I was  
17 at 909 Milo White with Detective Blasdel, at the  
18 time, for a brief period of time. I think even  
19 Chief Smith was at that location, outside for a  
20 moment. And Blasdel asked me some questions, a  
21 few brief questions inside of the house, but  
22 nothing major.  
23 Q And that's kind of what I'm getting at,  
24 is there was no point where, you know, on

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1 September 8th, 2015, or later, where you were  
2 asked to sit down with the detective and kind of  
3 go piece-by-piece what happened that day; is that  
4 fair?  
5 A Yes, that's fair.  
6 Q And you were never interviewed on camera  
7 before today; correct?  
8 A No.  
9 Q And as far as you know, Officer  
10 Holsopple and Officer Scherer were also not  
11 separately interviewed by a detective; is that  
12 correct?  
13 A I don't know if they were or not.  
14 Q Any reason to believe that they were?  
15 MR. LUTE: Objection.  
16 You may answer.  
17 A Not that I'm aware of.  
18 BY MR. HILL:  
19 Q Were you ever sat down and presented  
20 with any evidence that had been collected  
21 regarding Jordn Miller after September 8th, 2015?  
22 A No.  
23 Q In terms of Exhibit 12, the other  
24 officers, Officer Scherer and Officer Holsopple,

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1 consented to you signing for them; correct?  
2 A Yes.  
3 Q And with respect to -- and did you sign  
4 this document?  
5 A Yes.  
6 Q So all the writing, where it says  
7 Sergeant Moore, Officer Scherer, Officer  
8 Holsopple, that's all your handwriting?  
9 A Yes.  
10 Q How about with the date, where it says  
11 "9-8-15" handwritten. Is that you or Smith?  
12 A That's Smith.  
13 Q And did you write Smith's name, too, or  
14 did he write that?  
15 A That's his handwriting.  
16 Q After you arrived at 1019 Abington, had  
17 you developed in your mind a plan as to what to do  
18 when you got there?  
19 A Well, it was all evolving on my way, so  
20 there was no way to -- to initiate any kind of  
21 plan. He was on the move, so --  
22 Q Even with respect to initiating a plan,  
23 had you formulated one in your mind?  
24 A Well, I was going to where the call was,

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1 where he was last seen. So I was on my way to 909  
2 Milo White initially.  
3 Q And did you have a plan as to what to do  
4 when you got there?  
5 A Put him under control. He was having a  
6 psychiatric break.  
7 MR. LUTE: This is probably a good time  
8 to stop.  
9 (Recess taken.)  
10 BY MR. HILL:  
11 Q Before we went on a break a moment ago,  
12 I asked you whether or not you had formulated any  
13 plan in terms of your response to 909 Milo White.  
14 And your answer was you understood that he was  
15 having a psychiatric break. Is that fair?  
16 A Yes.  
17 Q In terms of responding to Jordn Miller's  
18 psychiatric break at 909 Milo White, did you have  
19 in your mind a plan as to what to do when you got  
20 there?  
21 A I mean, I always -- any call that would  
22 come out like that, if that's all the information  
23 that we have, I mean, in my head I'm thinking,  
24 okay, we just need to help this guy and we need to

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1 contain him so he's not dangerous, he's not  
2 hurting himself. So those things are always going  
3 through my mind.  
4 Q When you say "contain him," what do you  
5 mean?  
6 A So he's not running around and out of  
7 control.  
8 Q When you were responding or initially  
9 responding, you didn't coordinate in any way with  
10 your colleagues, Officer Holsopple or Officer  
11 Scherer; is that fair?  
12 A Yes.  
13 Q Did you understand that Officer  
14 Holsopple and Officer Scherer were also going to  
15 the scene?  
16 A Yes.  
17 Q So you knew that there would be three  
18 officers arriving at some point?  
19 A Yes.  
20 Q But in terms of who would do what or --  
21 I'm sorry. That wasn't clear.  
22 In terms of what officers would be  
23 responsible for doing what at the scene, you guys  
24 hadn't had a -- hadn't discussed that?

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1 A There was no way to know where he was.  
2 We were just looking for him.  
3 Q I mean, in terms of --  
4 A That was the plan, in my head, at least,  
5 is we need to find this guy. So it was just  
6 whoever came upon him first.  
7 Q And was there any thought in your mind  
8 about, over the radio, discussing with Officer  
9 Scherer or Officer Holsopple what to do when you  
10 found him?  
11 A No.  
12 Q How long of a drive -- I know you don't  
13 know exactly where you were at. But in looking at  
14 any documents, do you know how long it took  
15 between the initial call for Jordn Miller's  
16 psychiatric break and your arriving at 1019  
17 Abington?  
18 A Not without the dispatch records. A  
19 couple minutes.  
20 Q And during that entire time period, did  
21 you communicate by phone or by radio with Officer  
22 Holsopple in any way?  
23 A I don't remember.  
24 Q There's no memory of you doing so as you

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1 sit here?  
2 A It's possible, but I don't recall. A  
3 phone call would have been at least in my  
4 thoughts, probably, that day.  
5 Q Why do you say that?  
6 A Because we had a serious situation  
7 happen. If there was a phone call, I don't know  
8 what importance it would be other than I needed  
9 him to do something or, hey, can you run over here  
10 or can you call a detective or -- I mean, I don't  
11 know.  
12 Q In terms of Officer Scherer, did you  
13 have any -- you heard that he had deployed the  
14 Taser at some point?  
15 A Yes.  
16 Q Other than hearing him over the radio  
17 say that he had used a Taser, did you have any  
18 communication at all with Officer Scherer between  
19 the time of the original call regarding Jordn  
20 Miller and your arriving at 1019 Abington?  
21 A That's -- no. That's the first I heard  
22 of him tasing, was over the radio, yes.  
23 Q And there were no other communications  
24 between either you or Officer Scherer?

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1 A There was with dispatching them, of  
2 course, you know, where he was, and there were  
3 other people calling in dispatch. And I knew  
4 where they were. I knew the address, so, you  
5 know, I changed course, of course.  
6 Q When you say you knew where they were,  
7 is that because Officer Holsopple or Officer  
8 Scherer marked at the scene?  
9 A Yes. I mean, we had residents calling,  
10 giving an address where he was, and I heard them  
11 go out there.  
12 Q I mean, you heard over the radio when  
13 Officer Scherer had marked on the scene?  
14 A Yes.  
15 Q So you knew at that point that Officer  
16 Scherer and Officer Holsopple were there?  
17 A Yes.  
18 Q And Jordn Miller had been located?  
19 A Yes. Well, who we thought was the  
20 mental patient, yeah.  
21 Q Sure. That's a good qualification. I  
22 don't know that the name Jordn Miller had been  
23 used over dispatch.  
24 A No, it was not.

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1 Q But fair to say that the person at 1019  
2 Abington, who had been located, was the same guy?  
3 A It was, yes.  
4 Q When Officer Scherer and Officer  
5 Holsopple marked on the scene, do you know how far  
6 away you were from 1019 Abington?  
7 A Me?  
8 Q Yes.  
9 A No. And I don't know my route there.  
10 But I was a couple minutes away, so I mean, I have  
11 no idea what the route was. I never made it to  
12 Milo White, I know that.  
13 Q Did you have to change your route at any  
14 point based on the information from dispatch?  
15 A Like I said, I don't remember my route,  
16 but I do know I was on my way to 909 until they  
17 called back in and said he was on Abington, and  
18 then I changed my route.  
19 Q And when you say you changed your route,  
20 I understand Abington and Milo White are pretty  
21 much right next to each other?  
22 A Yes.  
23 Q So when you say you had to change your  
24 route, did you change your destination?

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1 A Yes. Like I'm not focusing on finding  
2 909 Milo White. I'm trying to get to Abington  
3 now.  
4 Q And in terms of when you say you changed  
5 your route, did you actually have to turn around  
6 and change your direction, or do you just have a  
7 different destination now?  
8 A I just -- a different destination.  
9 Q And you don't have, you know, a memory  
10 of where you were when Officer Scherer marked on  
11 the scene?  
12 A No.  
13 Q During the few minutes that you were  
14 driving, did you get on your radio and speak to  
15 anyone?  
16 A Speak to anybody? You mean other than  
17 dispatch?  
18 Q Did you speak directly to dispatch while  
19 you were driving in the direction of either 909  
20 Milo White or 1019 Abington?  
21 A Yes. I told them I was on my way to 909  
22 Milo White. And once they called out on Abington,  
23 if I even had time to call out that I was there, I  
24 would have been calling out that I was there, not

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1 on Milo White.  
2 Q During this few-minute drive, from the  
3 time that the initial call comes in and you're  
4 heading originally to 909 and then to 1019  
5 Abington, did you request any additional  
6 information from dispatch; for example, anymore  
7 information about this person you were responding  
8 to?  
9 A There was quite a bit of information  
10 that already came in from his mother, what ended  
11 up being his mother, about the psychiatric break  
12 and that he needed hospitalized and, you know,  
13 those kinds of things. And it was a constant  
14 barrage of radio traffic. And I can't even  
15 remember if I called 99, which was emergency  
16 traffic, or not.  
17 Q What was emergency traffic?  
18 A 99. And I don't know if there would  
19 have even been time, because it just happened so  
20 fast.  
21 So by the time they were out on  
22 Abington, a couple minutes later I was able to get  
23 there. So there was a lot of traffic. There was  
24 the dispatch traffic, and then, you know, more

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1 people were calling in saying he was trying to  
2 steal the Jeep on Abington. And then there was  
3 somebody down the road from 1019 Abington that  
4 also said he tried to get in that vehicle. So  
5 there was a lot of traffic coming from dispatch.  
6 By the time there was a break in  
7 traffic, they were already calling out that there  
8 was a Taser deployment and start the FD. And then  
9 I got there after that.  
10 Q The information -- you said there was a  
11 lot of information already provided by Jordn's  
12 mother about him, including his psychotic break  
13 and the need for hospitalization?  
14 A Yes.  
15 Q That's all the information you had while  
16 you were driving there?  
17 A Yes.  
18 Q So you didn't need to follow up to get  
19 additional information about that?  
20 A Yes. As far as I'm concerned, that's  
21 the truth.  
22 Q And that was, you know -- so you  
23 understood that you were responding to somebody  
24 with a psychiatric break whose family thought

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<p style="text-align: right;">Page 185</p> <p>1 needed hospitalization?</p> <p>2 A Yes.</p> <p>3 Q And during this few-minute drive,</p> <p>4 however long it was -- but we know it was a couple</p> <p>5 of minutes; correct?</p> <p>6 A Yes.</p> <p>7 Q While you were in the car?</p> <p>8 A Yes.</p> <p>9 Q You said when there was a break in</p> <p>10 traffic. You meant radio traffic?</p> <p>11 A Yes.</p> <p>12 Q When there was a break in radio traffic,</p> <p>13 that's when Officer Scherer aired that there was a</p> <p>14 Taser deployment?</p> <p>15 A Yes.</p> <p>16 Q You didn't -- I understand that you came</p> <p>17 to the scene of 1019 Abington after a fairly</p> <p>18 significant portion of the event actually took</p> <p>19 place; correct?</p> <p>20 A Yes.</p> <p>21 Q So in terms of Jordn's behavior before</p> <p>22 he got in the Jeep, you did not see Jordn; is that</p> <p>23 fair?</p> <p>24 A No. Yes, I did not.</p>	<p style="text-align: right;">Page 187</p> <p>1 before you arrived at 1019 Abington?</p> <p>2 A Before I arrived?</p> <p>3 Q Uh-huh.</p> <p>4 A No.</p> <p>5 Q Before you arrived, you didn't know</p> <p>6 anything about whether Jordn had bitten anybody;</p> <p>7 true?</p> <p>8 A No.</p> <p>9 Q True? Do you agree with what I said?</p> <p>10 A Yes.</p> <p>11 Q You did not observe Officer Scherer or</p> <p>12 Officer Holsopple remove Jordn from the Jeep at</p> <p>13 any point?</p> <p>14 A No.</p> <p>15 Q You did not see Officer Scherer kick</p> <p>16 Jordn; correct?</p> <p>17 A No.</p> <p>18 Q You did not see Officer Holsopple strike</p> <p>19 Jordn with his forearm; correct?</p> <p>20 A No.</p> <p>21 Q You did not observe Officer Holsopple or</p> <p>22 Officer Scherer's efforts to restrain Jordn at any</p> <p>23 time before handcuffs were used or applied?</p> <p>24 A No.</p>
<p style="text-align: right;">Page 186</p> <p>1 Q In terms of anything Jordn did before he</p> <p>2 got in the Jeep, your information was limited to</p> <p>3 anything that was aired over dispatch?</p> <p>4 A Yes.</p> <p>5 Q You did not see Jordn at any time he was</p> <p>6 in the Jeep; correct?</p> <p>7 A No.</p> <p>8 Q You didn't know, when you arrived at</p> <p>9 1019 Abington, what Jordn's condition was while he</p> <p>10 was in the Jeep, other than a guy in a psychiatric</p> <p>11 break who needs hospitalization?</p> <p>12 A Well, when the second call had came in,</p> <p>13 about he's trying to steal a Jeep, that</p> <p>14 information, that radio traffic.</p> <p>15 Q But in terms of what Jordn looked like</p> <p>16 in the Jeep, you didn't see him?</p> <p>17 A No, I didn't see him in the Jeep.</p> <p>18 Q How he was moving his arms in the Jeep,</p> <p>19 you didn't see that?</p> <p>20 A I was not there.</p> <p>21 Q What he was actually doing in the Jeep,</p> <p>22 you didn't see any of that?</p> <p>23 A I didn't see it.</p> <p>24 Q You did not hear Jordn say anything</p>	<p style="text-align: right;">Page 188</p> <p>1 Q Correct?</p> <p>2 A Yes, that's correct.</p> <p>3 Q You did not observe any kind of</p> <p>4 interaction between Jordn and any homeowner or</p> <p>5 other person at 1019 Abington before you arrived?</p> <p>6 A No.</p> <p>7 Q You were not -- before you arrived, you</p> <p>8 were not given any information about Officer</p> <p>9 Scherer's interactions with Jordn other than the</p> <p>10 fact that Officer Scherer had used a Taser;</p> <p>11 correct?</p> <p>12 A Correct.</p> <p>13 Q And with respect to Officer Holsopple,</p> <p>14 at the time you arrived at 1019 Abington, you had</p> <p>15 not received any information about Officer</p> <p>16 Holsopple's interaction with Jordn; correct?</p> <p>17 A No.</p> <p>18 Q Correct?</p> <p>19 A Correct.</p> <p>20 Q Between the time Officer Scherer arrived</p> <p>21 at 1019 Abington and his first use of the</p> <p>22 electrical conducted weapon, had you received any</p> <p>23 information from any source about what Jordn was</p> <p>24 doing while the officers were on scene?</p>



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<p style="text-align: right;">Page 189</p> <p>1 A I know that there was something about 2 some kind of screwdriver or trying to stab 3 somebody, they were trying to hold him in the 4 Jeep, you know, the residents that were calling. 5 This is -- would be the only information, other 6 than that. Nothing from the officers. Just 7 dispatch information. 8 Q And the dispatch information speaks for 9 itself; right? 10 A Yes. 11 Q So if anything about a screwdriver or a 12 stabbing or anything like that is not in the 13 dispatch records, it didn't happen; correct? 14 MR. LUTE: Objection. When you say "it 15 didn't happen," do you mean it factually didn't 16 happen? 17 BY MR. HILL: 18 Q Are you suggesting that there are 19 communications that were made over dispatch that 20 weren't recorded? 21 A We have a private channel, so I don't 22 know if there were any communications over the 23 private channel about it. If it's not on the main 24 channel dispatch tape, which I didn't listen to</p>	<p style="text-align: right;">Page 191</p> <p>1 whether it was on the MDT, that kind of thing. 2 Q You're confident that you had that 3 information on September 8th, 2015? 4 A To my recollection, I had it. 5 Q And what was the source of that 6 information? 7 A Like I said, I got the information one 8 way or the other. So it was either on the private 9 channel or on my MDT. A lot of times there would 10 be more information on the computer terminal than 11 they would give out over the air, too. 12 Q So before you arrived at 1019 Abington, 13 it's your testimony today that you received either 14 through the MDT, the private channel or over 15 dispatch information that Jordn had tried to stab 16 someone? 17 A Maybe I was -- didn't say it right. I 18 knew that day. I knew at some point when I was on 19 that call. So whether it was from the MDT, when I 20 pulled up, or whether it was on the private 21 channel or whether it was aired, somehow I knew 22 that information. 23 When I found it out, I couldn't tell 24 you. I don't even know what time I got there, so</p>
<p style="text-align: right;">Page 190</p> <p>1 the whole thing, then it's possible that 2 information came over the private channel. But 3 when we're on 99, we're supposed to use the main 4 channel. So it could be that it was on private. 5 I don't know. But I knew that there was other 6 people calling in. We also have MDTs. 7 Q What are MDTs? 8 A Mobile data terminals. 9 Q And those are kind of like the text 10 messaging? Is that what that is? 11 A They're for the calls, the dispatch 12 calls. They give us information. 13 Q So you are -- I just want to make sure I 14 understand your testimony today under oath. 15 You received from dispatch on September 16 8th, 2015, information that one of -- that Jordn 17 Miller tried to stab a homeowner? 18 A I knew that that day. When I found that 19 out, I can't tell you exactly. These are -- 20 you're talking about communications. I don't know 21 if they were before the call -- the second call 22 from the homeowner came out, after the second call 23 from the homeowner came out. I don't recall -- 24 it's been too long -- which channels were used,</p>	<p style="text-align: right;">Page 192</p> <p>1 -- 2 Q But the way you found out was through 3 one of those three sources you just discussed; 4 correct? 5 A It would have to be. 6 Q That's all I want to know. 7 A I mean, if I knew, I would tell you, if 8 I knew exactly. 9 Q And who is able to put information out 10 over the MDT? 11 A Anybody. Sheriff's office, us, 12 dispatch. 13 Q And then how do you receive this 14 information through MDT? 15 A It's sent electronically, like an 16 e-mail, for the most part. When they add notes, 17 you have to refresh the notes, though, which I 18 would have had the opportunity to do, but they 19 probably wouldn't have. They got there pretty 20 quick. 21 Q When you say "they," you're talking 22 about officers Scherer and Holsopple? 23 A Yes. 24 Q So you would have had the opportunity to</p>

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1 refresh the notes?

2 A Yes, on the drive.

3 Q So is there a refresh button?

4 A Yes.

5 Q Nothing -- and you said it could have

6 been sent by the sheriff's office?

7 A Yes, who is our dispatchers. But also,

8 sheriff's deputies can also send things over the

9 MDT, so -- you said who can send who what. And we

10 can all talk and communicate.

11 Q I want to make sure. It's MDB?

12 A Well, they used to be called MDTs, and

13 they're MDBs. They're all the same thing. It's

14 just a way to transmit information from dispatch

15 to us, from us to the sheriff's office.

16 Q What's does -- what's it called here at

17 the department? Is it MDB or MDT?

18 A We call it both. If you're an older

19 officer, we say MDB -- or MDT. If you're a newer

20 officer, it's MDB, so.

21 Q And is this information -- how do you

22 receive the MDB or MDT?

23 A It just comes like an e-mail. And it

24 will have a location, and then it will have a

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1 bunch of notes in the body of the e-mail, you

2 could say. And at the bottom, it will say what

3 officers are on their way, what time they got

4 there, when they clear, who the caller was, if

5 they know, any details the caller mentioned.

6 Q When you say it's like an e-mail, do you

7 have your own distinct e-mail address, or is this

8 to every officer?

9 A It goes by car number. So I'm the

10 supervisor, and I work during the day. So it

11 would be A905.

12 Q That would have been your car that day?

13 A That would have been my car that day.

14 Q And you said it goes -- so how would you

15 have -- so it's directed then to A905, or A905 is

16 one of the recipients of this?

17 A Anybody could see that call. So the

18 sheriff's office could even read the call notes if

19 they wanted to.

20 Q And when would you have -- this is one

21 of the -- I know it's one of the possibilities,

22 that it was through this MDT or MDB.

23 A Uh-huh.

24 Q Would you had to have hit a refresh

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1 button, or would this have auto-populated?

2 A It depends on what time I got there,

3 because it will refresh and then -- you know, it

4 will send me the refresh notes once I go there,

5 once I call out. So I could have refreshed. I

6 didn't have to. You know, there's no way to know

7 if I did or not, to check that.

8 Q And these notes, these electronic notes

9 that come through, are they visible on -- you

10 basically have a laptop on the computer; is that

11 right?

12 A Yes.

13 Q So these notes, are they visible on the

14 laptop just as you're driving?

15 A Yes.

16 Q And then do you download those notes

17 afterwards?

18 A No, not unless we request them.

19 Q Have you requested them in this case?

20 A I never did.

21 Q Did anyone ask you to request them?

22 A I wouldn't be in charge of requesting

23 them, but no.

24 Q When would you have read this MDB or MDT

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1 note regarding a caller saying that Jordn tried to

2 stab someone?

3 A At any time between the time the

4 original call came out until the time I got out of

5 my car to the time that I went to Milo White. I

6 mean, any time I'm in the car, I can see the

7 notes.

8 Q Okay. But I want to -- I'm just trying

9 to figure out when you got the information. And

10 it's your testimony that you had that information

11 when you arrived at 1019 Abington?

12 A I said I had it at some point in time

13 when I was there. I don't know if it was right

14 before I got there. I don't know if it was the

15 MDT. I don't know if it was the officers on the

16 private channel. I don't know exactly, but I had

17 that information.

18 Q We're talking about the source of the

19 information?

20 A Right. I wish I could tell you the

21 source of the information.

22 Q Hold on. Hold on. I'm just trying to

23 figure out the timing.

24 A Right. And I don't know the timing.

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<p style="text-align: right;">Page 197</p> <p>1 Q Okay.</p> <p>2 A It happened so fast, I couldn't tell</p> <p>3 you.</p> <p>4 Q And again, I hate to do it, but this is</p> <p>5 my only chance under oath, so I really have got to</p> <p>6 dig in a little bit.</p> <p>7 This information that was provided to</p> <p>8 you at some point when you were at 1019 Abington</p> <p>9 was from a call from a homeowner or a resident?</p> <p>10 A I said it could have been in the call</p> <p>11 notes from the homeowner calling. It could have</p> <p>12 been on the private channel. It could have been</p> <p>13 on the services channel. It could have been on</p> <p>14 the main channel. It could have been the MDB.</p> <p>15 Q Have you ever gone back and looked for</p> <p>16 that information?</p> <p>17 A No.</p> <p>18 Q When is the last time you ever saw --</p> <p>19 this information, if it was through the MDB, when</p> <p>20 was the last time you would have seen it?</p> <p>21 A I don't -- that day. I mean, it</p> <p>22 disappears, you know. It doesn't come back, so --</p> <p>23 Q What do you mean, it disappears?</p> <p>24 A Once you log off for that day, it's not</p>	<p style="text-align: right;">Page 199</p> <p>1 call, that would be recorded; correct?</p> <p>2 A Yeah, unless they were having</p> <p>3 communication problems or recording problems.</p> <p>4 Q There's no reason for you -- there's no</p> <p>5 reason for you to believe there were any recording</p> <p>6 --</p> <p>7 A Not that I know of, no.</p> <p>8 Q On September 8th, 2015?</p> <p>9 A Yeah.</p> <p>10 Q Just let me finish.</p> <p>11 In terms of -- you said communications</p> <p>12 over the main channel?</p> <p>13 A Yes.</p> <p>14 Q When you say the main channel, is that</p> <p>15 the main channel that officers here at Springfield</p> <p>16 Township are using?</p> <p>17 A To get dispatch calls, we use the main</p> <p>18 channel, which is PDOPs.</p> <p>19 Q PDOPs?</p> <p>20 A PDOPs, yes.</p> <p>21 Q What does that stand for?</p> <p>22 A Just Police Department Operations</p> <p>23 channel. That's the main channel.</p> <p>24 Then we have a private channel that we</p>
<p style="text-align: right;">Page 198</p> <p>1 in your messages that you have that day. And</p> <p>2 every time you log off the MDT and you delete the</p> <p>3 messages from that computer, then they're not on</p> <p>4 that computer anymore. They would be stored at</p> <p>5 the sheriff's office communications center, but</p> <p>6 not on that particular MDB anymore.</p> <p>7 Q But in terms of the MDB or MDT, the</p> <p>8 sheriff's department would have that information?</p> <p>9 A Yes.</p> <p>10 Q And how do you know that? Have you seen</p> <p>11 these printouts in the past?</p> <p>12 A Yes.</p> <p>13 Q So with respect to any information you</p> <p>14 had regarding messages coming through the MDT or</p> <p>15 MDB, the sheriff's office would be able to confirm</p> <p>16 that?</p> <p>17 A Yes, if that's where they were from,</p> <p>18 yeah.</p> <p>19 Q In terms of information from callers to</p> <p>20 911, those calls are recorded; correct?</p> <p>21 A 911s are recorded, yes. Services is</p> <p>22 recorded. The main channel is recorded.</p> <p>23 Q So in terms of any person calling and</p> <p>24 reporting any behavior of Jordn Miller by a 911</p>	<p style="text-align: right;">Page 200</p> <p>1 use that a lot of times -- our secondary radios</p> <p>2 are on automatically. So if we're out at a call</p> <p>3 and we're trying to say something, if you don't</p> <p>4 switch it back to A-1, which is OPs, you're on the</p> <p>5 private channel and you're talking. And once I</p> <p>6 recognize that you're on the wrong channel and I</p> <p>7 can't tell you to go to the main channel, now</p> <p>8 you're talking on the private channel, where we</p> <p>9 give more detailed information, because they don't</p> <p>10 want it going over the main channel because it's</p> <p>11 too much traffic for all the jurisdictions that</p> <p>12 are policing the area.</p> <p>13 And then there's the services channel,</p> <p>14 which I believe is recorded. That's A-3. And</p> <p>15 that's services. And I believe that's recorded.</p> <p>16 And those are the main -- the main channels we</p> <p>17 would have used that day.</p> <p>18 Q The services channel, is that dispatch</p> <p>19 -- that's not private citizens using the services</p> <p>20 channel; correct?</p> <p>21 A It's dispatch, but it can be, you know,</p> <p>22 heard over scanners.</p> <p>23 Q But I mean, in terms of services</p> <p>24 channel, that's not a direct line for people in</p>

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<p>1 the community to contact police officers at 2 Springfield Township; correct? 3 A Not to call us, no. They would be 4 calling in to whoever sits at the services 5 terminal. 6 Q But I mean over the radio. Those 7 aren't -- 8 A No. 9 Q You're not hearing directly citizens on 10 there making complaints? 11 A No. 12 Q So they would be calling some number, 13 and then a dispatch person would be airing the 14 information out over the services channel? 15 A Not necessarily. They could be airing 16 it out over the services channel or the main 17 channel. 18 Q And that is channel A-3? 19 A A-3 and A-1. 20 Q Those are both services channels, A-3 21 and A-1? 22 A No. A-1 is OPs. A-3 is services. A-2 23 is our private channel. 24 Q Okay. And then the other one -- the</p>	<p>1 look right when it's coming across, I don't know 2 what channel they're on. 3 Q If I wanted to find this information 4 that you had while you were at 1019 Abington, that 5 Jordn had tried to stab somebody, where should I 6 look? 7 A Like I said, I don't know where the 8 information came from, so you could look wherever 9 you want. Those avenues. 10 Q But I mean, as a law enforcement officer 11 here, if you wanted to find that information, 12 where would you look? 13 A Probably the same place you would look, 14 because I'm telling you the avenues that I would 15 find out that information, either an officer told 16 me on a private channel, it came through dispatch, 17 or it was on the MDT. It could have been on the 18 services channel. Somebody could have yelled it 19 when I was getting out of the car. Something 20 happened when I got there. I knew that happened. 21 Q Okay. Anything else? Any other ways 22 you would have had this information? 23 A Not that I know of. 24 Q You said somebody could have yelled it;</p>
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<p>1 other possible channel is the private channel; 2 correct? 3 A Yes. 4 Q And the private channel, again, that's 5 not something that members of the community are on 6 speaking; correct? 7 A No. 8 Q That's just between officers? 9 A Yes. 10 Q So that would have been an officer -- if 11 that information about Jordn Miller trying to stab 12 somebody came over on the private channel, that 13 would have been information being relayed by 14 another officer? 15 A Yes. 16 Q Do you know which officer -- well, you 17 have no -- you don't know how you got the 18 information? 19 A I don't remember. 20 Q Do you know if Officer Scherer or 21 Officer Holsopple used that private channel? 22 A I don't know, because unless you're 23 looking at the screen -- you can see my screen is 24 all the way in here. Unless I take it out and</p>	<p>1 correct? 2 A It's possible. I knew it there, so -- 3 Q Who would have yelled it? Do you know 4 the person? 5 A There was a lot of people around. 6 Q And what specifically would they have 7 yelled? 8 MR. LUTE: Objection. 9 You may answer if you know. 10 A Yeah. I knew something about a 11 screwdriver and wailing it out of the window. 12 That's all I know. Trying to stab somebody. He's 13 got a screwdriver, something to that effect. 14 BY MR. HILL: 15 Q Did you hear that from -- well, you 16 don't know where you would have heard it? 17 A (Shakes head.) 18 Q When you created Exhibit 12, did you 19 make a point of including all the important 20 information? 21 A I mean, there was probably information 22 there that we could have put in that's not in 23 there. It was a pretty traumatic event, so you 24 try to put in as much as you can to tell what</p>



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1 happened in the scenario, and it's pretty  
2 accurate. There could be things that we could  
3 have put in there, I suppose. Hindsight is 20/20,  
4 but it was pretty traumatic for everybody  
5 involved.  
6 Q Including Jordn?  
7 A Yes.  
8 Q How many times have you reviewed Exhibit  
9 12 before today, before your testimony right now?  
10 A I read it probably once.  
11 Q You read it this morning?  
12 A Yes.  
13 Q Anything stand out as being inaccurate  
14 that you wanted to add?  
15 A I mean, if there's something specific,  
16 you can ask me. But this is basic what happened.  
17 I mean, it's all truthful.  
18 Q Well, I'm asking you.  
19 A Well --  
20 Q You said there are things that in  
21 hindsight we could add?  
22 A Well, probably --  
23 MR. LUTE: Objection.  
24 You may answer.

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1 A Okay. It could be ten pages long. I  
2 mean, I tend to get long-winded, but I put the  
3 basics. It might have been ten pages if it was  
4 just all my information. But I was typing it  
5 because I type the fastest. And they told me what  
6 happened when they got there. And then I wrote  
7 what happened when I got there. And it was just a  
8 basic scenario of what happened.  
9 BY MR. HILL:  
10 Q So do you have any idea with any degree  
11 of accuracy when you would have learned from an  
12 unknown source that Jordn tried to stab somebody?  
13 A I don't know the times of anything. It  
14 all went by and quickly.  
15 Q Did you tell Chief Smith at any time  
16 that you had knowledge that Jordn tried to stab  
17 anybody?  
18 MR. LUTE: Objection.  
19 You may answer.  
20 A No, we never had that conversation.  
21 BY MR. HILL:  
22 Q Why not?  
23 MR. LUTE: Objection.  
24 Go ahead.

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1 A There would be no reason. He wanted to  
2 know the basics of what happened, you know. The  
3 main points were he didn't stab anybody, so the  
4 main points were he was trying to steal a Jeep in  
5 this driveway. And the officers got there, and  
6 they told their side. And I told my side of what  
7 I did when I got there and what happened when I  
8 went over to 909 Milo White, and then I went to  
9 the hospital. So he just wanted to make sure  
10 Bubba was -- or Officer Scherer was okay, because  
11 he was bit. And I had open wounds and Joe had  
12 open wounds. So, you know, we were talking about  
13 that and is everything all right.  
14 BY MR. HILL:  
15 Q Where were your open wounds?  
16 A I had one on my finger somewhere. I  
17 can't remember which finger it was, but we were  
18 tested for hepatitis for months after that so I'm  
19 sure they would have it.  
20 Q Did you get any medical treatment for  
21 the wound itself?  
22 A No. It was just an exposure, so we had  
23 blood drawn, if that's medical attention.  
24 Q Did you photograph the wounds on your

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1 hands?  
2 A I don't remember.  
3 Q What finger was it on?  
4 A I don't remember that either.  
5 Q Did you tell anyone at the department  
6 that you had a wound on your finger?  
7 A When they called us to tell us that he  
8 had hepatitis C, we looked to see if we had any  
9 open wounds. And when there were some open  
10 wounds, you know, we were all concerned. And I  
11 can't remember if I went to the hospital then and  
12 had blood drawn or exactly what happened. But I  
13 know that it was an exposure after the fact, and  
14 then we had to continue to go up to Cuyahoga Falls  
15 for blood draws to make sure we didn't have  
16 hepatitis C.  
17 Q In terms of any wounds that you  
18 experienced as a result of your interaction with  
19 Jordn --  
20 A That wasn't as a result. I had a wound.  
21 Q Before you got there?  
22 A Yeah. I had an open cut, yes, and I was  
23 exposed to his hepatitis.  
24 Q So when you said that "we had wounds,"

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1 you meant that you came to the scene with wounds?  
2 A Yes. I did, at least.  
3 Q That's not Jordn's fault that you had a  
4 wound?  
5 A No.  
6 Q Not anything he did to you?  
7 A No.  
8 Q How about with respect to Officer  
9 Holsopple?  
10 A That, I don't know.  
11 Q Do you know if Officer Holsopple had any  
12 injuries as a result of his interaction with  
13 Jordn?  
14 A Not to my knowledge. Nothing important  
15 where it would have to be seen, medical attention.  
16 Q Did you see Officer Holsopple get  
17 checked out by EMS at the scene?  
18 A I don't remember anything. EMS was  
19 there when they took Jordn and Officer Scherer to  
20 the hospital. Right as soon as they were leaving,  
21 as soon as I could, I jumped in my car and went to  
22 his mom's house.  
23 So what happened after that, you would  
24 have to ask Officer Holsopple.

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1 Q So I'm trying to make sure I understand  
2 this.  
3 You did not ever have any conversations  
4 with Chief Holsopple about the fact --  
5 A Officer Holsopple.  
6 Q I'm sorry. You did not have any  
7 conversations at any time with Chief Smith about  
8 the fact that you remember getting information  
9 before you interacted with Jordn that he had  
10 attempted to stab someone with a screwdriver?  
11 A I don't recall any details with Chief  
12 Smith, other than the basics of the situation.  
13 Q Before today -- well, strike that.  
14 Have you ever written in any documents  
15 that you created at any time that Jordn ever tried  
16 to stab someone?  
17 MR. LUTE: Objection.  
18 You may answer.  
19 A Not to my knowledge.  
20 BY MR. HILL:  
21 Q Before today, had you ever discussed  
22 with anyone that you claimed to have known at the  
23 time you got to 1019 Abington or while you were at  
24 1019 Abington that Jordn had attempted to stab

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1 someone with a screwdriver?  
2 A I wasn't --  
3 MR. LUTE: Objection.  
4 You may answer.  
5 A I wasn't there when this alleged trying  
6 to stab happened. And he didn't stab anybody. So  
7 I went with the offense that he was committing,  
8 and I wasn't concerned about that because he  
9 didn't make contact with anybody. That wouldn't  
10 have been a priority of mine.  
11 BY MR. HILL:  
12 Q Did you use force at any time against  
13 Jordn because you thought he had tried to stab  
14 someone?  
15 A I was not there during that situation.  
16 Q But my question is: At any time that  
17 you engaged in Jordn, did you use force because  
18 you thought he had tried to stab someone?  
19 A No.  
20 Q That was not one of the things factoring  
21 into your decision to use force?  
22 A No.  
23 Q Okay. Did you ever speak to anyone at  
24 1019 Abington to find -- on September 8th, 2015,

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1 to find out had they been stabbed by Jordn?  
2 A No. If that was a situation, they would  
3 have made it known.  
4 It was more important for me to find out  
5 what was going on at his mother's house, and  
6 that's why I raced there.  
7 Q I'm just wondering kind of from the  
8 perspective of if you're at a scene and you hear  
9 somebody may have been stabbed or somebody tried  
10 to stab someone, did you go around and ask is  
11 everybody okay?  
12 A They were there first. If there were  
13 any stabbings, somebody would have been running  
14 around screaming like they always are when they're  
15 stabbed, oh, my God, you know. And that was not  
16 happening. The situation with the people were all  
17 under control at that time.  
18 Q Where were the people when you got  
19 there?  
20 A They were just around. And I don't  
21 remember exactly where they were standing, but I  
22 just remember kind of jogging up the driveway and  
23 there were people everywhere.  
24 Q They were a ways back from the vehicle

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<p style="text-align: right;">Page 213</p> <p>1 -- they were a ways back from Jordn at that point?</p> <p>2 A They were far enough back where they</p> <p>3 weren't interfering with the officers, I just know</p> <p>4 that much.</p> <p>5 Q And they didn't appear to you to be in</p> <p>6 any kind of physical injury running around?</p> <p>7 A No.</p> <p>8 Q So anything you might have heard about</p> <p>9 somebody being stabbed, by the time you got there</p> <p>10 and you saw these people, you realized that</p> <p>11 couldn't be the case?</p> <p>12 A It was a tried --</p> <p>13 MR. LUTE: Objection.</p> <p>14 Go ahead.</p> <p>15 THE WITNESS: I'm sorry.</p> <p>16 A It was a tried. It wasn't he stabbed</p> <p>17 somebody, so that was not on the forefront of my</p> <p>18 brain, no.</p> <p>19 BY MR. HILL:</p> <p>20 Q And when you saw these people, I think</p> <p>21 you said they seemed to be -- their behavior</p> <p>22 seemed to be controlled?</p> <p>23 A They were controlled.</p> <p>24 Q They weren't within -- you said they</p>	<p style="text-align: right;">Page 215</p> <p>1 A Uh-huh.</p> <p>2 Q Feel free to flip through them, but just</p> <p>3 try to keep them in order, okay?</p> <p>4 A Uh-huh.</p> <p>5 Q Is that -- those exhibits you have, I</p> <p>6 believe they're marked as Exhibit 19; is that</p> <p>7 right?</p> <p>8 A 18.</p> <p>9 Q Exhibit 18, is that the location where</p> <p>10 you responded on September 8th, 2015?</p> <p>11 A Yes.</p> <p>12 Q And in looking at those photographs,</p> <p>13 does it refresh your recollection at all in terms</p> <p>14 of where any homeowners or other citizens may have</p> <p>15 been when you arrived?</p> <p>16 A I don't know exactly where they were. I</p> <p>17 just know there were people around, but they</p> <p>18 weren't posing any threat to what we were doing.</p> <p>19 Q You said they were no more than 100 feet</p> <p>20 away.</p> <p>21 A Right.</p> <p>22 Q Can you narrow that at all to try to</p> <p>23 tell me where they were at?</p> <p>24 A I have no idea where they were at. I</p>
<p style="text-align: right;">Page 214</p> <p>1 weren't interfering with the scene. And by that,</p> <p>2 you mean they're not like on top of Jordn;</p> <p>3 correct?</p> <p>4 A Yeah. They're not hovering over the</p> <p>5 officers or trying to yell like he did this or he</p> <p>6 did that, you know, not in their face, not</p> <p>7 interfering with them.</p> <p>8 Q They're basically -- there's this event</p> <p>9 happening with Jordn and Officer Holsopple, and</p> <p>10 then there's kind of a separate kind of group of</p> <p>11 people who are in the yard; fair?</p> <p>12 A There's people everywhere. I don't know</p> <p>13 if they're in the yard, in the driveway. I</p> <p>14 briefly looked at the people, but I was focused on</p> <p>15 my officers and Jordn.</p> <p>16 Q How close do you estimate these people</p> <p>17 were to Jordn and the officers?</p> <p>18 A There's no way for me to know. I mean,</p> <p>19 that neighborhood is tiny. The yards are tiny.</p> <p>20 So they were just variously around the house,</p> <p>21 garage, vehicles kind of thing. They weren't more</p> <p>22 than 100 feet away.</p> <p>23 Q Okay. But I mean, as you came up, up</p> <p>24 the driveway -- and you have some exhibits here?</p>	<p style="text-align: right;">Page 216</p> <p>1 just know there were people. That wasn't where my</p> <p>2 focus was.</p> <p>3 Q Did they seem to be in any immediate</p> <p>4 harm or jeopardy when you got there?</p> <p>5 A No.</p> <p>6 Q You and I are probably -- I guess,</p> <p>7 probably like six and a half feet away, something</p> <p>8 like that?</p> <p>9 A Uh-huh.</p> <p>10 Q Is that fair?</p> <p>11 A Yes.</p> <p>12 Q Were they at least that far away from</p> <p>13 Jordn and the officers?</p> <p>14 A There's no way to know. I mean,</p> <p>15 maybe -- it would take probably just a couple</p> <p>16 seconds for them to get close to us.</p> <p>17 Q Sure.</p> <p>18 A Or interfere, if they wanted to.</p> <p>19 Q No. I understand that. I'm just trying</p> <p>20 to figure out where they actually were.</p> <p>21 A There's no way for me to know where they</p> <p>22 were.</p> <p>23 Q They were just far enough away that they</p> <p>24 didn't seem to be posing a problem?</p>

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<p style="text-align: right;">Page 217</p> <p>1 A They weren't hovering over us, and that 2 was all I was concerned about. 3 Q And they didn't seem to be in any 4 immediate jeopardy when you got there; fair? 5 MR. LUTE: Objection. 6 You may answer. 7 A They were around. There's always that 8 possibility, but they weren't getting injured when 9 I got there. 10 BY MR. HILL: 11 Q And I know it's always a possibility. 12 Everything is a possibility. But as you're coming 13 up to the scene and you're processing this 14 information, you were not under the impression 15 that they're in any immediate danger; is that 16 fair? 17 A Just my officers; not them, yes. 18 Q Now, at the time that you get there, you 19 know that Jordn has already been tasered once; 20 correct? 21 A Yes. 22 Q Do you know at the time you get there 23 why he's been tasered? 24 A No.</p>	<p style="text-align: right;">Page 219</p> <p>1 where Jordn was on the ground? 2 A I mean, I know he was in the driveway, 3 but I don't know. I couldn't tell you exactly 4 where he was at in the driveway. 5 Q Can you tell me generally? 6 A He would have had to have been next to 7 the vehicle they got him out of, but I don't know 8 how far away from it that he was at that point. 9 Q All right. But I just want to know your 10 memory here, as you sit here. 11 A Well, we cut his hoodie off, so I would 12 assume that's where he was at, in that various 13 location. 14 Q So you're looking where the hoodie -- 15 the camouflaged hoodie is located in those 16 photographs? 17 A Right. The only place I knew where he 18 was in that driveway, and what I was focusing on, 19 was where we had cut off his hoodie and it was 20 laying there before he was extracted into the 21 ambulance to be taken to the hospital. 22 Q So -- 23 A So where at in the driveway, I don't 24 know exactly. But wherever the general location</p>
<p style="text-align: right;">Page 218</p> <p>1 Q When you get there, to the scene, at 2 1019 Abington, do you know why Jordn is out of the 3 vehicle, meaning who decided to get out of the 4 vehicle, Jordn or the officers? 5 A No, not to my knowledge. I don't know 6 how he is now out of the vehicle, yeah. I can 7 assume, but, you know, I wasn't there for it. 8 Q I don't want you to assume. I just want 9 to know what was going on in your mind when you 10 got there, okay? 11 A Uh-huh. 12 Q Is that fair? 13 A I can tell you what I was thinking when 14 I got there. Is that what you want me to do, 15 about how he was out of the vehicle? 16 Q Sure. 17 A I figured that my officers extracted him 18 from the vehicle. 19 Q Why did you figure that? 20 A Because the door was open and he wasn't 21 in the vehicle any longer. He was on the ground. 22 Q And you have -- the documents you have 23 in front of you, Exhibit 18, those photographs, 24 when you arrived on the scene, can you show me</p>	<p style="text-align: right;">Page 220</p> <p>1 of the hoodie. 2 Q And can you hold up that photograph? 3 A You can see the hoodie in this one. 4 Q I'm going to zoom in. Can you move it a 5 little bit? And is the hoodie behind the Jeep? 6 A There's a part behind the Jeep and a 7 part to the side of the Jeep. 8 Q Which part of the hoodie is where Jordn 9 was located? 10 A He was in that general vicinity. 11 Q But you said there's two different parts 12 of the hoodie. One is behind the Jeep, and one is 13 to the side of the Jeep; correct? 14 A Yes. 15 Q So he wasn't in two places; right? 16 A I just said he's in that general 17 vicinity. Whether he was in the back of the Jeep 18 or the side of the Jeep, I can't tell you. He was 19 near the Jeep, and I remember cutting the hoodie 20 -- the hoodie being cut off. 21 Q Did you cut the hoodie off? 22 A I don't remember who cut the hoodie off. 23 I think it may have been scissors from the EMS 24 squad. You would have to ask them. I was too</p>



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<p style="text-align: right;">Page 221</p> <p>1 busy trying to arouse him, so --</p> <p>2 Q Where was Jordn's head with respect to</p> <p>3 the location of the Jeep? Does that make sense?</p> <p>4 That might have been very unclear.</p> <p>5 A I still don't know which direction he</p> <p>6 was facing, so --</p> <p>7 Q Was Jordn's head closer to the Jeep or</p> <p>8 were his feet closer to the Jeep?</p> <p>9 A Like I said, I do not know. He was</p> <p>10 bucking around, and he was all over the place. I</p> <p>11 don't know which direction at what time he was</p> <p>12 located.</p> <p>13 Q So you saw Jordn moving around the</p> <p>14 driveway?</p> <p>15 A He was bucking up and kicking and moving</p> <p>16 around. He was all over the place.</p> <p>17 Q How far did Jordn's body travel while</p> <p>18 you were in the driveway?</p> <p>19 A He was -- at that time, he was just able</p> <p>20 to buck up and kick and try to bite.</p> <p>21 Q But my question is: You said he was</p> <p>22 moving all over the driveway. From the time you</p> <p>23 got there until the time he became unresponsive,</p> <p>24 how far did Jordn's body move across the driveway?</p>	<p style="text-align: right;">Page 223</p> <p>1 Q And I know you said you can't tell how</p> <p>2 far it moved.</p> <p>3 Are you able to say under oath that it</p> <p>4 did move, his head -- the closeness of his head to</p> <p>5 the Jeep moved while you were in the -- while you</p> <p>6 were on scene?</p> <p>7 A Under oath, I'm telling you his head was</p> <p>8 off the ground and against the driveway on his own</p> <p>9 volition and his legs were kicking and he was</p> <p>10 reaching around and trying to bite everybody that</p> <p>11 was around, so his head was moving. I don't know</p> <p>12 how much, how many inches, how many feet. I do</p> <p>13 not know.</p> <p>14 Q When you arrived on the scene, what side</p> <p>15 of Jordn's body was Officer Scherer?</p> <p>16 A I don't know who was in which location.</p> <p>17 I think that Holsopple had just gotten his right</p> <p>18 arm out from underneath of him, so he had to have</p> <p>19 been towards the right. Officer Scherer was up</p> <p>20 towards his head, because he had just gotten</p> <p>21 bitten right before I got up to them.</p> <p>22 Q How did you know that? I thought you</p> <p>23 didn't know.</p> <p>24 A They told me that.</p>
<p style="text-align: right;">Page 222</p> <p>1 A I do not know. I was too concerned with</p> <p>2 getting him under control.</p> <p>3 Q When you said that he was moving all</p> <p>4 across the driveway, what did you mean?</p> <p>5 A He's bucking around, so I don't know</p> <p>6 which direction his head is pointing, which is</p> <p>7 what you're asking. I do not know.</p> <p>8 Did he move a quarter? Did he move a</p> <p>9 half? 180? I don't know.</p> <p>10 Q As you sit here, can you say whether his</p> <p>11 body moved at all while he was in the driveway?</p> <p>12 A Well, I'm sure it did.</p> <p>13 Q That's not my question. My question is:</p> <p>14 As you sit here, can you testify under oath as to</p> <p>15 whether Jordn's body moved at all on the driveway</p> <p>16 while you were there?</p> <p>17 A Well, his body moved the whole time</p> <p>18 until the very end.</p> <p>19 Q In terms of the location on the</p> <p>20 driveway, can you say under oath as you sit here</p> <p>21 where his body moved in the driveway?</p> <p>22 A I told you, I do not know which</p> <p>23 direction his head was and how far his head</p> <p>24 portion moved to the location he was at.</p>	<p style="text-align: right;">Page 224</p> <p>1 Q So when you got there, he said, "I was</p> <p>2 bitten"?</p> <p>3 A No. Holsopple said, "He just bit Bubba</p> <p>4 in the leg."</p> <p>5 Q So how much earlier did that happen?</p> <p>6 A How much earlier did what happen?</p> <p>7 Q The bite.</p> <p>8 A It happened before I got out of the car</p> <p>9 and was coming up the driveway.</p> <p>10 Q So as you pull in, did you see the bite</p> <p>11 take place?</p> <p>12 A No.</p> <p>13 Q As you pull in, did you see Officer</p> <p>14 Scherer kick Jordn?</p> <p>15 A No.</p> <p>16 Q As you pull in, did you see Officer</p> <p>17 Holsopple strike Jordn in the back of the head?</p> <p>18 A I already told you no.</p> <p>19 Q So at what point -- so let me say.</p> <p>20 When you pull in and you start jogging</p> <p>21 up the driveway, are you looking at Officer</p> <p>22 Scherer's back or his side?</p> <p>23 A I have no idea what I'm looking at, at</p> <p>24 that point. I'm looking at Jordn Miller to see</p>

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<p style="text-align: right;">Page 225</p> <p>1 what I can do to help them control him.</p> <p>2 Q Same question with Officer Holsopple.</p> <p>3 As you're coming up the driveway, are you looking</p> <p>4 at Officer Holsopple's back or his side or his</p> <p>5 front?</p> <p>6 A I cannot tell you. I don't think I'm</p> <p>7 looking at anybody's butt, but I mean, you know,</p> <p>8 they were there and trying to control him, and I</p> <p>9 wasn't paying attention to my officers and their</p> <p>10 fronts or sides or which side they're on. I'm</p> <p>11 paying attention to what I can do to get control</p> <p>12 and help them get control of Jordn Miller, which</p> <p>13 was on the left side towards his shoulder area, is</p> <p>14 where I was standing. So wherever they tell you</p> <p>15 where they were standing is where they were</p> <p>16 standing.</p> <p>17 Q Where were their hands?</p> <p>18 A I wasn't paying attention to where their</p> <p>19 hands were. We were -- had hands on him, trying</p> <p>20 to keep him from kicking, trying to keep him from</p> <p>21 biting.</p> <p>22 Q I'm asking about their hands.</p> <p>23 A I cannot testify to where their hands</p> <p>24 were.</p>	<p style="text-align: right;">Page 227</p> <p>1 the ground?</p> <p>2 A We're trying to hold him down so that he</p> <p>3 can't hurt himself and us, yes.</p> <p>4 Q But my question is just, simply: You</p> <p>5 were using force to keep Jordn on the ground?</p> <p>6 MR. LUTE: Objection.</p> <p>7 You may answer.</p> <p>8 A Like continuous force or -- I don't</p> <p>9 understand what force you're talking about.</p> <p>10 BY MR. HILL:</p> <p>11 Q Well, how were you keeping Jordn on the</p> <p>12 ground?</p> <p>13 A Well, when he would buck up, we would</p> <p>14 try and hold him down, you know. And then he</p> <p>15 would buck up again and then go back down. So of</p> <p>16 course we weren't holding him down at all when he</p> <p>17 was back down on the ground and not trying to bite</p> <p>18 or kick us.</p> <p>19 Q And how were you -- when you say "buck</p> <p>20 up," what do you mean?</p> <p>21 A Like that. I mean, he has his back --</p> <p>22 MR. LUTE: Wait, wait. There's a</p> <p>23 record, so you kind of have to describe -- even</p> <p>24 though the video is showing --</p>
<p style="text-align: right;">Page 226</p> <p>1 Q Can you testify to where their hands</p> <p>2 were at any point?</p> <p>3 A No. I mean, I just know that somebody</p> <p>4 was trying to control his legs. Somebody was</p> <p>5 trying to control the middle section of his body.</p> <p>6 I was trying to control his head and not get</p> <p>7 bitten at the same time and shoulder area so he</p> <p>8 couldn't buck up to try and reach to bite us</p> <p>9 anymore. But I don't know what they were doing</p> <p>10 exactly.</p> <p>11 Q That was my only question, is: Do you</p> <p>12 know where their hands were at any point when you</p> <p>13 were at 1019 Abington?</p> <p>14 A We were all hands-on, trying to keep him</p> <p>15 down from getting injured and from injuring us.</p> <p>16 That's all I know. I know what I did. I don't</p> <p>17 have a specific idea of, oh, well, Officer</p> <p>18 Holsopple was holding his right calf or anything</p> <p>19 like that.</p> <p>20 Q But you remember Officer Scherer and</p> <p>21 Officer Holsopple at least trying to keep Jordn on</p> <p>22 the ground?</p> <p>23 A We were all trying to.</p> <p>24 Q So you're using force to keep Jordn on</p>	<p style="text-align: right;">Page 228</p> <p>1 THE WITNESS: Yeah.</p> <p>2 MR. LUTE: You sort of have to describe</p> <p>3 what you're physically doing.</p> <p>4 THE WITNESS: Oh, I have to like get up</p> <p>5 and describe it?</p> <p>6 MR. LUTE: No. I'm saying when you say</p> <p>7 "like that," she can only type the words "like</p> <p>8 that."</p> <p>9 THE WITNESS: Oh, I see what you're</p> <p>10 saying.</p> <p>11 MR. LUTE: So you have to be more</p> <p>12 descriptive.</p> <p>13 THE WITNESS: Okay.</p> <p>14 A So he has his hands -- Jordn Miller is</p> <p>15 cuffed behind his back at this point. And when I</p> <p>16 get on the scene, I can see him from a distance.</p> <p>17 And even when I got up to his body and he -- his</p> <p>18 head and shoulders are coming up off the ground,</p> <p>19 and they'd go down, and his legs would come up off</p> <p>20 the ground, and they'd go down, and he'd be trying</p> <p>21 to turn on his side and kick us that way, and he</p> <p>22 was trying to bite us by turning his head, and,</p> <p>23 you know, trying to like latch on to something.</p> <p>24 I don't know if that describes it good</p>

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<p style="text-align: right;">Page 229</p> <p>1 enough, but it was just trying to injure us, get 2 away altogether kind of thing. 3 BY MR. HILL: 4 Q I want to take it step by step, because 5 my question was: When you said he was bucking up 6 and you were -- it looked like you were describing 7 your shoulders. 8 A Yes. 9 Q Just along those lines of him bucking up 10 with his shoulders, his hands are behind his back; 11 correct? 12 A Yes. 13 Q They're secured; correct? 14 A Yes. 15 Q He's in a prone position; correct? 16 A Well, he's moving. 17 Q He's in a prone position; correct? 18 A Initially, when he's not moving. 19 Q Does he ever get up off the ground? 20 A He does not stand up. We tried to get 21 him to stand up, and he wouldn't. 22 Q You tried to transition Jordn out of a 23 prone position; is that what you're saying? 24 A We were trying to give him orders, and</p>	<p style="text-align: right;">Page 231</p> <p>1 that you're going to put Jordn directly in a 2 cruiser, police cruiser? 3 A Yes. 4 Q And 25 -- when you say, "Can you 25," 5 what does that mean? 6 A Head this way in route. 7 Q Is that the first time you requested 8 anyone else to head to the area? 9 A Other than the FD to step it up and the 10 EMS. 11 Q So I only want to discuss his shoulders, 12 okay? 13 Let me take that back. You said you 14 tried to get him up. 15 Did the three officers, you, Holsopple 16 and Scherer, ever attempt to lift or move Jordn 17 physically out of the prone position? 18 A I don't know what they tried to do, but 19 I know when I got there I wanted to try to talk to 20 Jordn to see if he would listen to any commands. 21 So it's: "Jordn, we need you to get up. 22 We need you to stand up. We need you to sit up," 23 that kind of thing. And he was fighting the whole 24 time.</p>
<p style="text-align: right;">Page 230</p> <p>1 he wasn't paying attention to anything. So no, he 2 was not listening to us. 3 Q My question is: You said we tried to 4 stand him up. 5 A Tried to get him up. Tried to order him 6 up. 7 Q So -- 8 A And I even called for another officer, 9 because I realized he wasn't going to get up, and 10 we may need you to carry him to the cruiser and we 11 might need more help. 12 Q What officer did you call? 13 A 902, which was Officer Linaburg. 14 Q And did you do that over your radio? 15 A I believe so. 16 Q And what did you say to Officer Linaburg 17 over the radio? 18 A Something to the effect of: "Can you 25 19 this way? We might need help getting him into the 20 cruiser." 21 Q And at what point in time did you make 22 that call? 23 A I have no idea what time it was. 24 Q So was it your expectation at this point</p>	<p style="text-align: right;">Page 232</p> <p>1 Q But that's not my question. Do you 2 remember my question? 3 A What is it you're looking for? 4 Q Did you ever -- you, Officer Scherer, 5 Officer Holsopple try to physically get Jordn -- 6 A I never tried -- 7 Q Let me finish the question. 8 A You already asked it. 9 MR. LUTE: Just wait for the question. 10 Go ahead. Probably start it again. 11 BY MR. HILL: 12 Q Did you, Officer Scherer, Officer 13 Holsopple, ever try to transition physically Jordn 14 out of a prone position? 15 A Not once I got there. I did not do 16 that. 17 Q That's all I want you -- 18 A That's all I'm trying to say, yes. I 19 was trying to explain what I meant by him getting 20 up. 21 Q Okay. 22 A Okay. 23 Q You don't know what was happening in 24 terms of Jordn's position before you got there;</p>

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1 correct?  
2 A His position?  
3 Q How he was being restrained?  
4 A I could see when I was coming up the  
5 driveway. Before I got there, of course I would  
6 not know.  
7 Q So I only want to ask -- I only want you  
8 to talk about what you know, okay? All right?  
9 A Okay. What do you want to know?  
10 Q So when I'm asking you questions about  
11 did you or Officer Holsopple or Officer Scherer  
12 ever try to transition Jordn out of a prone  
13 position, I'm asking about while you were there,  
14 okay? Just so we're clear.  
15 A Okay.  
16 Q While you were there, did you see  
17 Officer Scherer or Officer Holsopple ever try to  
18 transition Jordn out of a prone position?  
19 A Not to my knowledge.  
20 Q You never physically tried to assist  
21 Jordn out of a prone position; fair?  
22 A I don't recall trying to pull him up off  
23 the ground. We were trying not to get close like  
24 that.

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1 Q And I don't even mean -- and  
2 transitioning him out of a prone position could  
3 mean sitting him up; correct?  
4 A Yes, it could.  
5 Q It could mean rolling him on his side;  
6 correct?  
7 A It could.  
8 Q It could mean standing him up; correct?  
9 A Yes.  
10 Q And at least while you were present,  
11 none of those were attempted; correct?  
12 A No, they were not.  
13 Q When you said earlier you tried to get  
14 Jordn to stand up, those were verbal commands you  
15 were giving to Jordn?  
16 A Yes.  
17 Q This is after Jordn had been tasered?  
18 A Yes.  
19 Q What verbal commands were you giving  
20 Jordn?  
21 A I can't tell you word for word, but my  
22 common thing is, "Come on, buddy. We need you to  
23 stand up. We need you to get up. You need to  
24 just roll on over onto your side and get on your

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1 butt. Come on. We need to talk to you. Just  
2 stand up." And you're trying to talk to somebody,  
3 trying to get them to do what you want and what  
4 you need them to do, and he just wasn't  
5 responding.  
6 Q And then when he would go to move, what  
7 would you do?  
8 A Well, when he -- move in what way? If  
9 he was just wriggling around, we didn't do  
10 anything. We were just waiting for the squad.  
11 If he was trying to bite somebody, then  
12 we put him back down on the ground, so --  
13 Q Well, you said put him back on the  
14 ground?  
15 A Right.  
16 Q He never got off the ground; fair?  
17 A From the bucking that we talked about  
18 earlier.  
19 Q I just want to make sure we're clear on  
20 the record.  
21 When you say, "Put him back on the  
22 ground," from all the testimony I've heard in this  
23 case from all the officers, their testimony has  
24 been he never got off the ground?

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1 A I never said he got off the ground. But  
2 he's bucking and he's coming -- parts of his body  
3 are coming off the ground. These are semantics.  
4 Q Well, I just want to make sure we're  
5 clear so when we can look back at this and know  
6 what we talked about.  
7 A Well, you even buck like --  
8 MR. LUTE: Just wait for the question.  
9 THE WITNESS: Okay.  
10 BY MR. HILL:  
11 Q So you said there would be periods where  
12 Jordn would lay on the ground and not move at all;  
13 correct?  
14 A Very short in between the bucking, yes.  
15 Q How long did those periods last?  
16 A Not long. Maybe a couple seconds.  
17 Q Is there a reason why during those  
18 periods of a couple seconds where Jordn is lying,  
19 not doing anything, but in a prone position, no  
20 one attempted to transition him to a different  
21 position?  
22 MR. LUTE: Objection.  
23 Go ahead.  
24 A Because when he was moving, he was



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1 making further actions towards us to harm us, so  
2 we didn't want bit again.  
3 BY MR. HILL:  
4 Q So I'm just trying to understand.  
5 When he's laying on the ground not doing  
6 anything, you're not trying to get him out of a  
7 prone position. But at the same time, or during  
8 the same period, you're asking him to stand up?  
9 A I'm trying to get him to cooperate, to  
10 understand what I'm saying, to talk to him, to  
11 communicate, so that he would understand that  
12 we're not there to hurt him.  
13 "We're not here to hurt you, man. We  
14 just need to talk to you, figure out what's going  
15 on."  
16 Whenever we got close to his head area,  
17 he would try to bite. And when you stand somebody  
18 up, you take them by the arm and try to turn them  
19 over onto their butt, and that was too dangerous.  
20 Q Did he appear to understand what you  
21 were saying?  
22 MR. LUTE: Objection.  
23 Go ahead.  
24 A He was screaming and, you know, talking

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1 nonsense. I couldn't even tell you what he was  
2 saying or trying to say. But he was able to make  
3 noise. That's all I can tell you.  
4 BY MR. HILL:  
5 Q What kind of noise?  
6 A That's all I can tell you. I heard  
7 noise. Just nonsense.  
8 Q What kind of noise? Can you describe  
9 it?  
10 A I do not know. Just loud noises, you  
11 know, maybe even a "get off" here and there or  
12 whatever, but nothing that made any sense  
13 whatsoever.  
14 Q "Get off" makes sense, doesn't it?  
15 A Well, he didn't want arrested. And at  
16 that time, that's what he thought, he was under  
17 arrest, in our minds, like everybody else.  
18 Q Is that what you were thinking at the  
19 time?  
20 A Yes. After he was trying to steal a  
21 Jeep, I automatically thought he didn't want to  
22 get arrested for that.  
23 Q Is that what you thought you were  
24 dealing with at the time, a guy who was actively

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1 resisting because he didn't want to go to jail?  
2 A Well, I didn't know if it was mental and  
3 then he was trying to steal a Jeep on top of that.  
4 I didn't know if it was just mental and he was  
5 just in the Jeep. I didn't know what was going on  
6 in his head. I could only tell you what I was  
7 there for, and he was trying to steal a Jeep.  
8 Q You said -- I'm just trying to follow  
9 up.  
10 You said he maybe said "get off," and  
11 then you said he didn't want to go to jail.  
12 A That's generally when people tell us,  
13 "Get off me, man," you know, "get off me. Get  
14 away from me." They say that all the time.  
15 Q And was he saying those things?  
16 A He may have said something like "off,"  
17 or "get off" or he was verbally trying to  
18 communicate. Some things didn't make sense. I  
19 don't remember exactly what he said at all, but he  
20 was making noise.  
21 Q As you sit here today, do you think you  
22 remember Jordn saying something like "get off"?  
23 MR. LUTE: Objection.  
24 You may answer.

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1 A It's -- it's in my head that he did, but  
2 I don't know exactly what he was saying. I don't  
3 think he knew what he was saying. So I can't tell  
4 you for sure. It was something to that effect,  
5 but I can't tell you exactly what he said.  
6 BY MR. HILL:  
7 Q Do you remember hearing any -- any  
8 statements or words from Jordn that you could  
9 understand?  
10 A Other than whatever it was that he said  
11 to that effect, no, I didn't understand anything  
12 he was saying or trying to say when I was there.  
13 Q So it was a lot of -- a lot of  
14 incomprehensible noise, fair, coming from Jordn?  
15 A It was yelling noise, mostly.  
16 Q And then you heard him say something  
17 like "get off," "get off me"?  
18 A Something to that effect.  
19 Q And when during your interaction with  
20 Jordn did you hear him say "get off me"?  
21 A When he was trying to bite us.  
22 Q So where were you at when he was saying  
23 "get off me"?  
24 A I never moved from his left shoulder

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<p>1 area.</p> <p>2 Q And you're talking about where your foot</p> <p>3 was?</p> <p>4 A Yes, where my body was.</p> <p>5 Q And my understanding is Jordn was in</p> <p>6 a -- handcuffed behind his back, on his stomach,</p> <p>7 and you were standing towards where like the crown</p> <p>8 of his head would be?</p> <p>9 A Yeah, like shoulder area.</p> <p>10 Q Were you straddling Jordn?</p> <p>11 A No.</p> <p>12 Q You have one foot on Jordn's shoulder</p> <p>13 blade?</p> <p>14 A On his left shoulder blade when he bucks</p> <p>15 up only. When he would go back down, I didn't</p> <p>16 have anything on him.</p> <p>17 Q So you would put your foot on him when</p> <p>18 he started to buck up?</p> <p>19 A Yes.</p> <p>20 Q And you would use that foot to push him</p> <p>21 back down?</p> <p>22 A Yes. Well, to make sure that he didn't</p> <p>23 get his head turned enough to bite anybody.</p> <p>24 Q Right. But physically, you would be</p>	<p>1 (indicating).</p> <p>2 Q Okay.</p> <p>3 A That's where you come up. So if you</p> <p>4 want somebody to go back down so they can't turn</p> <p>5 their head, you push down right here (indicating).</p> <p>6 Q And where was your heel?</p> <p>7 A I could draw it, if you want, but --</p> <p>8 Q Was your heel on his back?</p> <p>9 A No. Like my toes were on -- right here</p> <p>10 (indicating). And so I'm sideways, so that I can</p> <p>11 move out of the way if he makes affirmative action</p> <p>12 towards me to bite me. So if this is his shoulder</p> <p>13 blade, my toes are right here. The rest of my</p> <p>14 foot is right here. And I wear a size seven shoe,</p> <p>15 so --</p> <p>16 Q So when Jordn would go to raise his</p> <p>17 shoulders off the ground, you would pick your foot</p> <p>18 up, put it on his shoulder, and push him back</p> <p>19 down?</p> <p>20 A Right. And then take my foot back off.</p> <p>21 Q And how long would this struggle</p> <p>22 continue before you took your foot off?</p> <p>23 A Oh, well, as soon as his shoulder was</p> <p>24 back down on the ground, I took my foot off. And</p>
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<p>1 pushing his body down?</p> <p>2 A It was pushing it down, yes.</p> <p>3 Q And that would continue until he fell</p> <p>4 into these periods where he wasn't re -- where he</p> <p>5 was kind of limp for a moment, for a few seconds?</p> <p>6 A It only happened a couple times by the</p> <p>7 time I got there and by the time he went</p> <p>8 unresponsive.</p> <p>9 Q So your left foot would be on, is it</p> <p>10 Jordn's right shoulder?</p> <p>11 A It would have been my right foot on his</p> <p>12 left shoulder.</p> <p>13 Q Your right foot on his left shoulder.</p> <p>14 And you describe it in your report as his shoulder</p> <p>15 blade?</p> <p>16 A General area, yeah.</p> <p>17 Q And is that like your scapula area?</p> <p>18 Where would that be?</p> <p>19 A Well, right here (indicating), I guess.</p> <p>20 Q Like upper back?</p> <p>21 A Yeah. I mean, your shoulder.</p> <p>22 Q I just want to make sure that -- can you</p> <p>23 -- we're on video, so we can actually see.</p> <p>24 A I just pointed to it. Right here</p>	<p>1 that happened a couple of times.</p> <p>2 Q So how long -- were you able to push him</p> <p>3 down right away?</p> <p>4 A Yes.</p> <p>5 Q So when he lifted his shoulders up, when</p> <p>6 you put your foot on him, you were able to push</p> <p>7 his shoulders down easily?</p> <p>8 A His shoulder down.</p> <p>9 Q Easily?</p> <p>10 A I wouldn't say easily. He was trying to</p> <p>11 bite at us so --</p> <p>12 Q I know that. But I'm talking about the</p> <p>13 amount of force that you had to use, because you</p> <p>14 described him in your report as having superhuman</p> <p>15 strength; correct?</p> <p>16 A Yeah, he was very strong. It took three</p> <p>17 of us to control him. So was the shoulder his</p> <p>18 strongest? I mean, probably that -- he was</p> <p>19 kicking pretty hard, too.</p> <p>20 Q I'm asking what you did.</p> <p>21 In terms of superhuman strength, how</p> <p>22 much force did you have to use to keep this person</p> <p>23 on the ground?</p> <p>24 A The superhuman strength was Officer</p>

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1 Holsopple and Officer Scherer. My part of it was  
2 at the very end. And although he was kicking and  
3 trying to bite and bucking up, it wasn't anything  
4 that I couldn't control as far as one shoulder  
5 when there were three of us there. So I don't  
6 know what you want me to say.  
7 Q I don't want you to say anything. I  
8 want to know what happened.  
9 A And I'm trying to describe it the best  
10 that I can.  
11 MR. LUTE: I think --  
12 BY MR. HILL:  
13 Q In terms of superhuman strength, you did  
14 not observe Jordn doing anything in terms of his  
15 back or shoulder that demonstrated some superhuman  
16 strength?  
17 A He was trying to bite us, that's all.  
18 Q That's not my question.  
19 A He didn't have a cape and fly around or  
20 anything.  
21 Q Then what did you mean? You agreed to  
22 this language in the report of superhuman  
23 strength?  
24 A That was their -- it was all three of us

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1 comprised in this investigator's note. They told  
2 me what they experienced when they were there. I  
3 discussed in there what I experienced when I was  
4 there. They said he had superhuman strength when  
5 they had to extract him and they had to get him on  
6 the ground and get him handcuffed and control him.  
7 So if you want to talk about the superhuman  
8 strength, you can talk to them.  
9 Q I did.  
10 A Okay.  
11 Q But you signed off on their report, so I  
12 want to talk to you about it, okay?  
13 A I believe my officers, so it was the  
14 three of us.  
15 Q My question is: The phrase that you  
16 used, superhuman strength, does that apply to the  
17 period that you were on scene?  
18 A Not any more than anybody else he was  
19 trying to bite.  
20 Q That's not my question. The terminology  
21 the three of you agreed to, superhuman strength,  
22 did that apply to the period that you were on the  
23 scene and interacting with Jordn where your foot  
24 was on his shoulder?

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1 A Not that time. Not when I was there.  
2 Q So is it your understanding that the  
3 reference "superhuman strength" that's in Exhibit  
4 12 applies to the time period before it was all  
5 three officers restraining Jordn?  
6 A That's applied, yes, before I was there.  
7 Q I spoke to Officer Scherer about Jordn  
8 moving his head while you were there. I'm sorry.  
9 I spoke to Officer Holsopple about that.  
10 Officer Holsopple saw Jordn move his  
11 head -- try to move his head from side-to-side but  
12 never saw Jordn move his teeth to try to bite  
13 somebody.  
14 Is your testimony different than that?  
15 A Yes.  
16 Q Okay. So I want you to tell me what --  
17 you're telling me that Jordn was actively trying  
18 to bite someone?  
19 A He had his mouth open. I knew he  
20 already bit somebody. In my mind, he was trying  
21 to bite somebody else again.  
22 Q I want to ask, though, what you saw.  
23 A I can't say --  
24 Q I'm asking what you saw Jordn do.

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1 A I'm explaining to you. In my opinion,  
2 he was trying to bite again. He had his mouth  
3 open and was coming towards where our legs were.  
4 And to me, that would be him trying to bite again.  
5 What he was trying to do in his head, I  
6 don't know. But that was my fear, and that's what  
7 I was trying to prevent from happening.  
8 Q You said he was coming to where our legs  
9 were; correct?  
10 A Yes.  
11 Q Whose legs?  
12 A Like I said, I don't know which position  
13 we're in. We're looking at him. I'm focusing on  
14 Jordn Miller. I'm not focusing on which body is  
15 where. I just see legs, and there are officers's  
16 legs in polyester pants, and his mouth is next to  
17 them. And I'm just making sure his mouth isn't  
18 going to connect to a leg again.  
19 Q When you say he was coming to where  
20 their legs are, what did you mean just now, if you  
21 don't know where their legs were at?  
22 A I know where my legs are, and I can see  
23 polyester pants.  
24 Do I know which position the officers

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<p style="text-align: right;">Page 249</p> <p>1 are in at that time? I'm focusing on Jordn 2 Miller. I think I was pretty specific with that. 3 I see polyester pants, I see his mouth, I see it 4 open, and I see it by a police leg. And I'm going 5 to make sure he doesn't bite it. That's all I 6 know. 7 Q How close was Jordn's mouth to any 8 police officer's leg, not including your own? 9 A Inches from where we were trying to keep 10 him from getting up and getting away from us. 11 Q So whose leg, Officer Scherer or Officer 12 Holsopple? 13 MR. LUTE: Objection. I think she's 14 already said she doesn't know. She said it like 15 three times. 16 BY MR. HILL: 17 Q Well, I just want to know, because you 18 said -- 19 A I know you want to know. 20 Q It's within inches, but you don't know 21 where their legs are, you're telling me. 22 MR. LUTE: She says she sees where legs 23 are, but she doesn't know who they belong to. 24 A Yeah. We all have black boots on. We</p>	<p style="text-align: right;">Page 251</p> <p>1 police legs within inches trying to keep this 2 person on the ground, away from biting people. 3 You see blue polyester pants. I -- there's not a 4 face on their calf or on their ankle or on their 5 boot. I can't say. I'm not paying attention to 6 that. I'm paying attention to Jordn and making 7 sure he can't injure my officers. 8 Q As you arrived on scene, you saw Officer 9 Scherer use the electrical-conducted weapon on 10 Jordn a second time; correct? 11 A I heard it when I was getting out of my 12 car. 13 Q What did you hear? 14 A The t-t-t-t-t of a Taser. 15 Q Did you see anything about where Jordn 16 was at when you heard the Taser? 17 A I don't remember the location he was at. 18 I just heard the noise. 19 Q Did you see Jordn's body while the Taser 20 was being activated? 21 A From where I was, I could tell that it 22 had no electro-muscular incapacitation at all, 23 like something wasn't connected or something 24 wasn't working.</p>
<p style="text-align: right;">Page 250</p> <p>1 all have the same polyester pants on. I know 2 where my legs are. I see other legs, and they're 3 police legs. They're not people legs, you know. 4 They're not jeans legs or shorts legs. They're 5 polyester pants legs. Do I look up to see whose 6 legs they are? I don't care whose legs they are. 7 I know they're cops's legs. That's all I know. 8 BY MR. HILL: 9 Q I'm just asking you. 10 A And I've been answering you. And I will 11 answer anything you want, but I don't want to 12 answer it five times. You wouldn't want to 13 either. 14 Q Well, my only question is that you're 15 saying he's within inches of biting a police 16 officer's leg. But you're also at the same time 17 saying you don't know where either the police 18 officers were at with respect to Jordn and their 19 positions. So you understand why there's a 20 disconnect? 21 A If you laid down right here and there's 22 three officers around you, how far can anybody be 23 from you when we're trying to keep you on the 24 ground? There's legs everywhere. There's six</p>	<p style="text-align: right;">Page 252</p> <p>1 Q Or the probe is not connected? 2 A I don't know. I don't know if it just 3 had no effect on him. I don't know if there was a 4 probe that wasn't all the way attached. At that 5 point I just didn't know at all. 6 Q Well, the probes were in Jordn's back; 7 correct? 8 A Well, at least one. But sometimes it 9 can be, if you have clothing on, it's not 10 completely into your skin. If it's touching your 11 skin a little bit, it's not going to incapacitate 12 you muscularly. 13 Q Was it in his clothing? 14 A I don't remember where the probes were. 15 Q So what are you talking about? 16 A He was tased, and he had clothing on. 17 Q So do you know whether the probes were 18 connected or not? 19 A The other officers wrote in here where 20 the probes were: In his back, three inches a 21 part. I read that. 22 That's not my statement. That's theirs. 23 They tased him. 24 When I came up, I saw wires, and I knew</p>



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<p style="text-align: right;">Page 253</p> <p>1 it didn't incapacitate him.</p> <p>2 Q So you started going along the lines,</p> <p>3 saying sometimes they're not effective because the</p> <p>4 probes aren't connected.</p> <p>5 Do you know one way or another whether</p> <p>6 the probes were in Jordn's body when you arrived?</p> <p>7 A I don't know if one was disconnected or</p> <p>8 not. They could have been there the first time</p> <p>9 and then one might have fallen out. There's no</p> <p>10 way for me to have known. And all I was concerned</p> <p>11 about was he didn't hurt anybody or himself.</p> <p>12 So where the probes were and whether</p> <p>13 they were in the skin or just in the clothing or</p> <p>14 barely touching the skin, at that point I didn't</p> <p>15 know. He was moving around so much they could</p> <p>16 have come out.</p> <p>17 Q So is that your question as to whether</p> <p>18 or not you knew or didn't know where the probes</p> <p>19 were at?</p> <p>20 A I knew he was tased. When I saw that it</p> <p>21 didn't incapacitate him like a Taser normally</p> <p>22 does, because I know what it feels like, I knew</p> <p>23 something was wrong.</p> <p>24 Q How --</p>	<p style="text-align: right;">Page 255</p> <p>1 questions.</p> <p>2 Q So as you approached and you hear the</p> <p>3 Taser cycling, you're the supervisor on the scene</p> <p>4 at that point; correct?</p> <p>5 A Yeah, I'm getting up there.</p> <p>6 Q I mean, you are Officer Scherer and</p> <p>7 Officer Holsopple's supervisor; true?</p> <p>8 A Yes.</p> <p>9 Q And at that point, when you hear the</p> <p>10 Taser going off, do you implicitly authorize the</p> <p>11 use of the Taser?</p> <p>12 MR. LUTE: Objection.</p> <p>13 You may answer.</p> <p>14 A No.</p> <p>15 BY MR. HILL:</p> <p>16 Q Are you comfortable with the Taser being</p> <p>17 used at that point?</p> <p>18 A If they felt that it was necessary, yes.</p> <p>19 Q Did you ask anyone why the Taser was</p> <p>20 being used a second time?</p> <p>21 A I wasn't even around anybody. I was</p> <p>22 coming up. I wasn't even next to anybody when it</p> <p>23 was going off.</p> <p>24 Q My question is: You get out of the car.</p>
<p style="text-align: right;">Page 254</p> <p>1 A What it was, whether it was him --</p> <p>2 Well, let me answer. I asked -- you</p> <p>3 asked your question.</p> <p>4 I don't know if one came disconnected or</p> <p>5 not, but it didn't incapacitate him. That's all I</p> <p>6 can tell you.</p> <p>7 Q When Jordn became unresponsive, did you</p> <p>8 ever look to see if the probes were still</p> <p>9 attached?</p> <p>10 A No.</p> <p>11 Q Why not?</p> <p>12 A Because I was too concerned with him</p> <p>13 injuring himself and other people.</p> <p>14 Q When he was unresponsive?</p> <p>15 A Oh, unresponsive?</p> <p>16 Q That was my question.</p> <p>17 A No. When he was unresponsive, I was</p> <p>18 trying to get him to come to, as you can read. I</p> <p>19 was doing sternum rubs. I was rubbing his back.</p> <p>20 We unhandcuffed him. We were checking his pulse.</p> <p>21 We were doing everything we could when he became</p> <p>22 unresponsive.</p> <p>23 Q My only question was --</p> <p>24 A Maybe it will save you from further</p>	<p style="text-align: right;">Page 256</p> <p>1 You start to jog towards where Mr. Miller is at;</p> <p>2 correct?</p> <p>3 A (Nods head.)</p> <p>4 Q Correct?</p> <p>5 A Yes.</p> <p>6 Q You hear the Taser cycling; correct?</p> <p>7 A Correct.</p> <p>8 Q You know that Jordn has been tasered</p> <p>9 once already; correct?</p> <p>10 A Correct.</p> <p>11 Q You understand at this point that he's</p> <p>12 in handcuffs; correct?</p> <p>13 A Not until I get completely up to him,</p> <p>14 no. I didn't know if he was fully in handcuffs or</p> <p>15 not until I was right up there next to him, and</p> <p>16 then I saw.</p> <p>17 Q At any point did you question the use of</p> <p>18 the Taser the second time?</p> <p>19 A No.</p> <p>20 Q Was any discussion had about that a</p> <p>21 Taser shouldn't be used a third time?</p> <p>22 A No.</p> <p>23 Q As the supervisor on scene, would you</p> <p>24 have been comfortable with a Taser being used a</p>

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<p style="text-align: right;">Page 257</p> <p>1 third time?</p> <p>2 MR. LUTE: Objection. It's</p> <p>3 hypothetical.</p> <p>4 You may answer.</p> <p>5 A At that point it didn't work, and he did</p> <p>6 what I would have done.</p> <p>7 BY MR. HILL:</p> <p>8 Q That's not my question. My question --</p> <p>9 A Well, there would have been no point in</p> <p>10 cycling a third time, when it doesn't work. When</p> <p>11 it doesn't work, you go to something else.</p> <p>12 Q You were close enough that you could</p> <p>13 hear the Taser cycling?</p> <p>14 A They're loud. I could hear it from the</p> <p>15 car, yes.</p> <p>16 Q So you said you could hear it from the</p> <p>17 car. Are you still in the car when you hear it?</p> <p>18 A I'm probably getting out, on my way up.</p> <p>19 Q Do you remember one way or another?</p> <p>20 A No. I mean, I was -- from the street,</p> <p>21 coming up the driveway, I could hear it.</p> <p>22 Q As soon as you got onto the scene and</p> <p>23 got to Jordn, did you ever put your hands on</p> <p>24 Jordn?</p>	<p style="text-align: right;">Page 259</p> <p>1 A It's their language and my language, so</p> <p>2 yes.</p> <p>3 BY MR. HILL:</p> <p>4 Q In terms of the language that is used</p> <p>5 after you were on scene, it's your language, too;</p> <p>6 correct?</p> <p>7 A Once I'm on scene, it's my language.</p> <p>8 Q It states -- and let me ask you: Before</p> <p>9 the Taser was cycled the second time, did you see</p> <p>10 anything that Jordn did?</p> <p>11 A I couldn't see -- I wasn't really even</p> <p>12 knowing where to focus when I got out. I heard</p> <p>13 it, and then I started to focus. And by the time</p> <p>14 the Taser cycle was over, I could see all three of</p> <p>15 them there.</p> <p>16 Q My question is: When you hear the Taser</p> <p>17 cycling, you know that the Taser has already been</p> <p>18 used; correct?</p> <p>19 A The first time. The first time?</p> <p>20 Q No. When you're either in the car or</p> <p>21 getting out of the car.</p> <p>22 A Yes.</p> <p>23 Q And you hear the Taser cycling, you know</p> <p>24 that the Taser is being used at that point;</p>
<p style="text-align: right;">Page 258</p> <p>1 A When I got to the scene and got up to</p> <p>2 Jordn?</p> <p>3 Q Yes.</p> <p>4 A Did I put my hands on him?</p> <p>5 Q Correct.</p> <p>6 A No.</p> <p>7 Q Was it the first position you took to</p> <p>8 put your foot on Jordn's shoulder blade?</p> <p>9 A They said, "Be careful, he just bit</p> <p>10 Bubba," and he was going crazy on the ground, and</p> <p>11 I never put my hands down there to get close to</p> <p>12 his face.</p> <p>13 Q So my question was: Before Jordn became</p> <p>14 unresponsive, did you ever put your hands on</p> <p>15 Jordn?</p> <p>16 A No.</p> <p>17 Q So with respect to the statement that</p> <p>18 you signed -- I'm just -- it's your language;</p> <p>19 correct?</p> <p>20 A I typed it.</p> <p>21 Q Well, you agreed to the language in it;</p> <p>22 correct?</p> <p>23 MR. LUTE: Objection.</p> <p>24 Go ahead.</p>	<p style="text-align: right;">Page 260</p> <p>1 correct?</p> <p>2 A Yes.</p> <p>3 Q Prior to hearing that noise, the Taser</p> <p>4 cycling already, when you're either in the car or</p> <p>5 getting out of the car, had you seen Jordn do</p> <p>6 anything?</p> <p>7 A No.</p> <p>8 Q Your statement reads: "The suspect</p> <p>9 would lay there for a few seconds but then would</p> <p>10 continue to fight and struggle to get up."</p> <p>11 Correct?</p> <p>12 A Yes.</p> <p>13 Q When Jordn would lay there -- it says,</p> <p>14 "Lay there for a few seconds," where was his face?</p> <p>15 MR. LUTE: Objection.</p> <p>16 Go ahead.</p> <p>17 A On the ground, sideways, in the front of</p> <p>18 him, to the other side.</p> <p>19 BY MR. HILL:</p> <p>20 Q What do you mean in the front of him?</p> <p>21 A Like straight down, to the side on the</p> <p>22 right, to the side on the left.</p> <p>23 Q And you have a clear memory of that?</p> <p>24 A He was all over the place.</p>

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1 Q That's not my question. My question is:  
2 Do you have a clear memory of where his face was  
3 at during these periods where you would lay there  
4 for a few seconds?  
5 A He was on the ground.  
6 Q My question is with respect to --  
7 If you don't remember --  
8 A I don't understand what the question is.  
9 I told you earlier I can't remember which  
10 direction he was in. I do know that he turned his  
11 head to the left and right and had it straight  
12 when I was there.  
13 Q When --  
14 A How many times, I don't know.  
15 Q So when you wrote, "He would lay there  
16 for a few seconds," do you know on how many  
17 occasions he laid there for a few seconds without  
18 moving?  
19 A Yes. I told you a couple times he would  
20 lay there.  
21 Q Is that three, is that four, is that  
22 five, is that six?  
23 A I told you earlier approximately two.  
24 Q And when he laid there, my question was:

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1 Do you have a memory of the direction of his face  
2 on both times he laid there without moving?  
3 A Each time? I couldn't tell you if it  
4 was to the right or to the left, no.  
5 Q Do you know if it was face down, face  
6 up? What do you remember?  
7 A Each time, I could not tell you which  
8 direction it was in each time.  
9 Q And you're confident where it says, "he  
10 would lay there for a few seconds," that happened  
11 twice?  
12 A Approximately twice.  
13 Q Do you remember it happening more than  
14 twice?  
15 A No, I don't remember more than twice or  
16 I would have told you more than twice.  
17 Q It says: "Officers were restraining him  
18 from hurting himself and getting up by holding him  
19 down." Correct?  
20 A Yes.  
21 Q So is that the reason that Jordn was  
22 being -- I mean, you selected this language. So  
23 is that why you believe Jordn was being held down,  
24 to keep him from hurting himself?

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1 A There were times he was going to hurt  
2 himself, and there were times when I thought he  
3 was going to hurt our officers.  
4 Q I'm just reading what you wrote, okay?  
5 It says: "Officers were restraining him  
6 from hurting himself and getting up by holding him  
7 down." Correct?  
8 MR. LUTE: Objection.  
9 Go ahead.  
10 A I certainly didn't want him to cut  
11 himself on the gravel driveway. We were trying to  
12 keep him from hurting himself and hurting us.  
13 BY MR. HILL:  
14 Q When you say cutting himself on the  
15 gravel driveway, is that why you were holding him  
16 down on the gravel driveway?  
17 MR. LUTE: Objection.  
18 Go ahead.  
19 A He was trying to bite us, he was moving  
20 -- he was banging his head around. I didn't  
21 want him to hurt himself. I didn't want him to  
22 cut himself. He was on a driveway. He was trying  
23 to lunge towards us with his head.  
24 BY MR. HILL:

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1 Q How did he lunge at you with his head?  
2 A He had his mouth open, like I told you  
3 earlier, and he was going towards the legs that  
4 were down towards his head.  
5 Q So can you just show us on the video? I  
6 mean, he's hands down --  
7 A I showed you earlier, but I can do it  
8 again, if you want.  
9 So his hands are back here, and he's  
10 bucking up like this, and he's coming towards this  
11 officer and coming towards this officer and going  
12 like this and wherever we're putting our legs.  
13 Q How high did his chest get off the  
14 ground?  
15 A As high as he could possibly get it. As  
16 far as inches, I couldn't tell you. Enough to  
17 where he could reach us if he wasn't put back  
18 down.  
19 Q Did he ever reach you?  
20 A He never bit me.  
21 Q High enough he could reach you. That  
22 doesn't describe how high it was. So how high was  
23 it?  
24 A I told you already --

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1 MR. LUTE: Objection.  
2 Go ahead.  
3 A I told you already I don't know how many  
4 inches away we were from him. But it wasn't far,  
5 because we didn't want him to get up and go  
6 running around and create more damage to himself  
7 or anybody else. He was close. Close enough to  
8 bite.  
9 BY MR. HILL:  
10 Q You feel comfortable putting your -- it  
11 sounds like your foot on his shoulder blade,  
12 pretty close to his head; correct?  
13 A Well, yeah, because I can move my leg  
14 out of the way if he's trying to bite me, and then  
15 he might turn his head the other way. But I'm not  
16 going to put my hand down towards his mouth.  
17 Q So you put your leg and foot on Jordn's  
18 shoulder blade, and he was not in a position to  
19 bite you from that angle; correct?  
20 A Yes, he was in a position to bite  
21 everybody from where he was at. The legs that  
22 were in front of me, he was in a position to bite  
23 every time he bucked up. When he bucked up, I put  
24 his shoulder back down on the ground so that he

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1 couldn't move his head.  
2 Q So where were you keeping your foot in  
3 between him bucking up?  
4 A On the ground to stand.  
5 Q So you're telling me that you put the  
6 foot on him, and then you put it on the ground  
7 next to him?  
8 A That's correct.  
9 Q And then when he would buck up, how high  
10 would you have to pick your foot up to put it on  
11 Jordn's back?  
12 A A couple inches. He is laying on the  
13 ground. Like this, like this, like this, like  
14 this. (Indicating.)  
15 Q So you were putting it up about that far  
16 (indicating)?  
17 A Well, that's about shoulder height.  
18 Whatever shoulder height is on the ground and him  
19 bucking up and then me putting his shoulder back  
20 down on the ground.  
21 Q What I'm asking you is: You said he  
22 bucked up, and you had to put your shoulder on his  
23 back. How high did you have to put your foot to  
24 get it on his back?

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1 A I don't know how high he bucked up. I  
2 told you I don't know how many inches he would  
3 come up off the ground. I lifted up my foot high  
4 enough to put his shoulder back down to the ground  
5 so he couldn't reach anybody with his mouth.  
6 Q And what you just demonstrated for the  
7 camera with your foot, is that about how high --  
8 or with your hands, is that about how high?  
9 A His shoulder length is this. So he  
10 bucks up from there. I don't know how many inches  
11 he bucks up, but his head is also moving to the  
12 left and right where our legs are. So how many  
13 inches that is, I don't know. His head is turning  
14 towards legs. That's all I know. So as soon as  
15 he would buck up and I could put his shoulder back  
16 down on the ground, then his head would go back  
17 down and he wouldn't be able to bite anybody  
18 anymore.  
19 Q If his head is continuously going  
20 side-to-side like you demonstrated, how is he not  
21 coming in contact with your leg as you're standing  
22 right in front of him but slightly to the side?  
23 MR. LUTE: Objection.  
24 Go ahead.

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1 A Because everybody is moving out of his  
2 way but trying to restrain him at the same time.  
3 If it was easy, we wouldn't have had to do any of  
4 that.  
5 BY MR. HILL:  
6 Q You said everybody is moving. Who?  
7 A If he moves and makes affirmative action  
8 towards one of my officers or me, we would move  
9 out of the way, restrain him to put him back down  
10 so that he couldn't reach us again, and then he  
11 would lay down. Then a couple seconds later, he  
12 would come back up, and then he'd get close to one  
13 of us. We'd move. We'd be able to put whatever  
14 they were using and my foot to put his shoulder  
15 back down until he was back down on the ground and  
16 couldn't reach to bite us anymore.  
17 Q So you would all get up and move away  
18 from Jordn?  
19 A No, not get up and move away. I told  
20 you we were all right next to him.  
21 So if his face came towards my leg, I  
22 would move my leg a second so he couldn't get at  
23 me, and then I would put them back down so that he  
24 couldn't make any further movements to bite us



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1 anymore.  
2 Q Hold on. You said we would all move out  
3 of the way. I'm talking about Officer Holsopple  
4 and Officer Scherer. Where did they go?  
5 A I'm talking about myself. I'm assuming  
6 they've moved, too, because his head went towards  
7 those legs. So if they didn't move, they would  
8 have gotten bitten.  
9 Q So when you said, "We all moved out of  
10 the way," you're talking about you?  
11 A Me and whoever's legs were there that we  
12 discussed earlier that were in polyester pants.  
13 Q So their testimony should be that they  
14 were moving out of the way?  
15 A I don't know what their testimony is.  
16 Q Well, if you're right, that's what their  
17 testimony should be; correct?  
18 MR. LUTE: Objection.  
19 Go ahead.  
20 A I'm not in their head. I don't know  
21 what they were thinking. In my head, that's what  
22 I was thinking.  
23 BY MR. HILL:  
24 Q Have you ever asked them what they were

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1 thinking?  
2 A No. As far as the biting?  
3 Q Yeah.  
4 A Is concerned? After the first bite?  
5 I mean, we didn't sit down and discuss  
6 this. Nobody is happy to have had this situation.  
7 Q Well, you did sit down and discuss this;  
8 didn't you?  
9 A We typed this up that night.  
10 Q Together?  
11 A And it took an hour and such, yes.  
12 So does it say in here how many times he  
13 tried to bite them? No. You would have to ask  
14 them that.  
15 Q So where it says, "Sergeant Moore had  
16 her right foot on his left shoulder blade to keep  
17 him from arching up and turning his head to bite  
18 anyone," did you write that?  
19 A Yeah, that's my words.  
20 Q And it says: "He continued to struggle  
21 and tried to get up for several minutes."  
22 Correct?  
23 A Yes. It happened a couple times.  
24 Q Well, for several minutes; correct?

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1 A It only lasted several minutes. So if  
2 that's what I have, that's what it has.  
3 Q So where it says, "He continued to  
4 struggle and tried to get up for several minutes,"  
5 that's your wording; correct?  
6 MR. LUTE: Objection.  
7 Go ahead.  
8 A It's the wording of the three of us. At  
9 some point, I know that it lasted a couple  
10 minutes, they know it lasted a couple of minutes.  
11 What their couple minutes is comparatively to what  
12 mine is, I don't know.  
13 BY MR. HILL:  
14 Q Well, I'll read the entire two  
15 sentences.  
16 It says: "Sergeant Moore had her right  
17 foot on his" -- referring to Jordn -- "left  
18 shoulder blade to keep him from arching up and  
19 turning his head to bite anyone. He continued to  
20 struggle and tried to get up for several minutes."  
21 Okay. That's what it says.  
22 A Right.  
23 Q So in terms of trying to get up for  
24 several minutes, you agreed to that language;

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1 correct?  
2 MR. LUTE: Objection.  
3 Go ahead.  
4 A Yes. To me, it was several minutes.  
5 BY MR. HILL:  
6 Q And when you say to you regarding  
7 several minutes, you're talking about this  
8 situation where you've got your right foot --  
9 you're using that to keep Jordn from arching up;  
10 correct?  
11 MR. LUTE: Objection.  
12 Go ahead.  
13 A The struggle was a couple minutes. Of  
14 course I did not have my foot on his shoulder  
15 blade for a couple minutes. It was only a few  
16 seconds one time, a few seconds another time.  
17 BY MR. HILL:  
18 Q Well, based on what I'm reading here,  
19 was he continued to struggle and get up for  
20 several minutes, we're talking about a couple  
21 minutes; right?  
22 A Right.  
23 Q And there were only two instances where  
24 Jordn was lying down flat; correct?

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1 A Two instances?  
2 Q Sure.  
3 A There were times where he was bucking  
4 up, times when he was turning his head, times when  
5 he was kicking.  
6 Could I tell you how many times he  
7 kicked and struggled and bucked up and struggled?  
8 I pushed his shoulder down a couple times. But he  
9 was struggling to get up for several minutes.  
10 That includes his legs.  
11 Q Okay.  
12 A It's the whole situation.  
13 Q So were there long stretches, then,  
14 where he wasn't doing anything with his head or  
15 trying to bite anyone?  
16 A No. Long stretches? No.  
17 Q Every time he arched up, you pushed his  
18 body down with your foot; correct?  
19 A That happened to me twice. He was also  
20 kicking. To me, that's struggling and trying to  
21 get away from us. It was the entire comprehensive  
22 situation.  
23 My incident happened a couple times. He  
24 was kicking towards whatever officer was back

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1 there and trying to roll around, and they were  
2 containing that part of him, I would assume,  
3 because I wasn't. I was handling the head  
4 movements. To me, that was a couple minutes all  
5 together, the struggle.  
6 Q So for everything except during this  
7 couple minutes where you're involved, there's only  
8 two occasions that last a couple seconds where  
9 he's lying still; correct?  
10 A Where I have to push his shoulder down.  
11 Q We talked earlier -- it says: "The  
12 suspect would lay there for a few seconds but then  
13 would continue to fight and struggle to get up."  
14 Correct?  
15 A That's exactly right.  
16 Q You said that happened twice?  
17 A To me, my incident.  
18 Are you asking me about the continuous  
19 struggle that was a couple minutes or my incident  
20 with the shoulder? I don't understand. You just  
21 need to clarify that. Am I being confusing? I  
22 don't know if I'm being confusing.  
23 Q There were only two occasions, then,  
24 where Jordn lifted his shoulders off the ground

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1 while you were there; correct?  
2 A Yes.  
3 Q And that only lasted a second or two  
4 before you pushed Jordn's shoulders down on the  
5 ground; correct?  
6 A Yes.  
7 Q Aside from that, Jordn's shoulders and  
8 torso area were on the ground; correct?  
9 A His head moved, his feet were moving,  
10 but his shoulders were down.  
11 MR. HILL: Let's change the tape, okay?  
12 THE WITNESS: Okay.  
13 (Discussion held off the record.)  
14 BY MR. HILL:  
15 Q Ready?  
16 A Yes.  
17 Q Okay. We lost the tape. The tape ended  
18 as you were giving -- giving your last answer.  
19 But I think we agreed that for the entire --  
20 entire few minutes that you were there were Jordn,  
21 there were only a few seconds where Jordn's chest  
22 or torso were not on the ground; true?  
23 A Yes, a couple of times.  
24 Q And those few occasions where Jordn's

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1 chest or shoulders lifted off the ground, you were  
2 able to use your foot to push him back on the  
3 ground relatively quickly?  
4 A Yes.  
5 Q And as you sit here, it's your  
6 understanding or memory that that happened only  
7 two or three times?  
8 A Yes.  
9 Q In terms of you moving around the area,  
10 were you able to stand relatively in the same  
11 position?  
12 A Yeah. I just moved my closest leg.  
13 Q And your closest leg, is that the one  
14 you were using to push Jordn down?  
15 A Yes.  
16 Q You didn't have to skirt your body  
17 around Jordn one way or another?  
18 A No.  
19 Q And when Jordn lifted his shoulders up  
20 off the ground, you were able to subdue him with  
21 your foot pretty quickly?  
22 A Yes.  
23 Q And then at some point during this  
24 process, Jordn stopped moving at all; correct?

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1 A Yes.  
2 Q And it says -- just tell me where you  
3 were at, where you were located. Was it still in  
4 the same position?  
5 A Yes.  
6 Q When Jordn stopped responding at all?  
7 A Yes.  
8 Q So how long was it that Jordn went back  
9 to the ground and stopped moving at all before one  
10 of the officers, or perhaps you, recognized that  
11 there was a problem with Jordn?  
12 A I'm so sorry. It's been a long day.  
13 This entire struggle, like I said  
14 earlier, it lasted a couple minutes. And then  
15 when he wasn't -- you know, I had to do that a  
16 couple times myself. Then when I noticed his legs  
17 weren't moving, too, when I didn't have to push  
18 down his shoulder blade, then I started getting  
19 worried when he was wasn't making any more noise.  
20 So right away, I'm like, "Hey, are you okay,"  
21 rubbing his back kind of thing, and he then wasn't  
22 moving anymore.  
23 So then we rolled him over, and I could  
24 see his chest rising and falling. I think Bubba

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1 probably told you he was feeling for the pulse,  
2 and then eventually he became unresponsive.  
3 Q Well, he wasn't responsive while he was  
4 still in the prone position?  
5 A Well, we eventually -- yeah. What I  
6 mean is --  
7 Q I mean, you tried to get him to respond  
8 and he couldn't?  
9 A Right. He wasn't talking or making any  
10 noise.  
11 Q Or making any movements?  
12 A Right.  
13 Q And you said that you started to rub his  
14 back?  
15 A Yes.  
16 Q Did you have to lean down to rub his  
17 back?  
18 A Yes.  
19 Q And where were you rubbing his back?  
20 A Middle of the back, between his  
21 shoulders, you know, "Hey, buddy, are you all  
22 right," you know, kind of thing.  
23 Q Did he still have the sweatshirt on?  
24 A Yes.

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1 Q Was the shirt lifted up at any point to  
2 expose the probes?  
3 A I don't remember.  
4 Q And how long did you remain behind Jordn  
5 where you were rubbing his back, asking are you  
6 okay?  
7 A Just for a second. When I realized he  
8 wasn't moving or saying anything, we rolled him  
9 over.  
10 Q Did his body appear lifeless at that  
11 point?  
12 A Yes.  
13 Q Limp?  
14 A Limp.  
15 Q You said he stopped making any noise.  
16 What noise was he making before he stopped?  
17 A All those noises that I explained  
18 earlier. When he no longer moved and no longer  
19 was making those noises is when I said, "Hey,  
20 buddy, are you okay," and rubbed his shoulders.  
21 Q And then do you remember which side  
22 Jordn was rolled onto, his right or his left?  
23 A I don't remember.  
24 Q And this is the first time that any

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1 Springfield officer attempted to roll Jordn out of  
2 a prone position; correct?  
3 A When I was there.  
4 Q First time -- from the time that you  
5 arrived, the first attempt to transition Jordn out  
6 of a prone position was after you recognized he  
7 was unresponsive; fair?  
8 A Yes.  
9 Q It states: "Officers could tell the  
10 suspect had debris in his mouth and in fear of  
11 choking rolled him on his side." Correct?  
12 A Yes.  
13 Q Now, Officer Holsopple testified that he  
14 was the individual that recognized the debris in  
15 Jordn's mouth. Is that consistent with your  
16 memory?  
17 A From what I can remember.  
18 Q From where you were standing, could you  
19 see any debris or see Jordn's mouth?  
20 A I could see his mouth. I couldn't see  
21 the debris, because -- until we rolled him over.  
22 And then there was just kind of dirt on his lips.  
23 Q While you were -- when Jordn became  
24 unresponsive, where was your foot?

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1 A Same spot on the ground.  
2 Q Not on Jordn's back?  
3 A No.  
4 Q When it says, "Officers could tell that  
5 the suspect had debris in his mouth," did you  
6 actually get down and look at his mouth to check  
7 for debris, or was that Officer Holsopple?  
8 A Officer Holsopple did that.  
9 Q Officer Holsopple already testified  
10 about the debris that he saw in Jordn's mouth.  
11 Based on your memory of the positions of  
12 the officers, of the three of you, who do you  
13 think would know best as to what was in Jordn's  
14 mouth?  
15 A Officer Holsopple. I remember him  
16 saying that.  
17 Q Do you remember what he said about the  
18 debris in his mouth?  
19 A Not exactly.  
20 Q Do you remember him saying anything  
21 about any substance in his mouth, rocks or  
22 anything like that?  
23 A No.  
24 Q Officer Holsopple said that no one

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1 attempted to remove any debris from Jordn's mouth.  
2 Is that consistent with your memory?  
3 A Yes.  
4 Q The first time anyone noticed or voiced  
5 any concern -- well, let's take a step back.  
6 Was it Officer Holsopple who said  
7 something first about Jordn having debris in his  
8 mouth?  
9 A I don't remember.  
10 Q You did not sustain any physical  
11 injuries from your encounter with Jordn Miller;  
12 correct?  
13 A No.  
14 Q Correct?  
15 A Correct.  
16 Q Jordn never scratched you or anything?  
17 A No.  
18 Q Because you didn't see Jordn until there  
19 was already -- or until he was already in prone  
20 restraint and had been tasered and things of that  
21 nature, you can't say what injuries he had while  
22 he was in the automobile; is that fair?  
23 A Yes.  
24 Q And you're not going to be able to state

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1 whether Jordn -- the scrapes and bruising and  
2 things like that, that might have been on Jordn's  
3 body, you can't state whether that happened while  
4 Jordn was on the ground with the officers; is that  
5 fair?  
6 MR. LUTE: Objection.  
7 Go ahead.  
8 A No, I'm -- nobody knows, I don't think,  
9 where those injuries came from.  
10 BY MR. HILL:  
11 Q Right. In order for you to know, you  
12 would have had to have seen him before he was on  
13 the ground; correct?  
14 A Right.  
15 Q When you and Officer Holsopple and  
16 Officer Scherer created what's Exhibit 12, the  
17 investigative notes, you already knew at that  
18 point that Jordn was in bad medical condition;  
19 correct?  
20 MR. LUTE: Objection.  
21 Go ahead.  
22 A That's why I asked the squad to step it  
23 up when I was there, yes.  
24 BY MR. HILL:

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1 Q And I mean, even though by the time  
2 you're back at the station that night creating the  
3 investigative note, which has some time stamps --  
4 it looks like the last time stamp is ten p.m. --  
5 you knew at that point that Jordn was in the ICU;  
6 correct?  
7 A Yes.  
8 Q You knew that Officer Scherer had  
9 ordered -- reported back that he was in critical  
10 condition?  
11 A I knew he was in -- on life support of  
12 some kind.  
13 Q At the time that you guys, you, Officer  
14 Holsopple and Officer Scherer, were creating  
15 Exhibit 12, the investigative note, you knew that  
16 because Jordn was on life support there was a fair  
17 chance he might not pull through. Is that safe to  
18 say?  
19 A When we did the notes, I didn't think  
20 for a second he was going to pass away. We got  
21 worried more the next day and then more the next  
22 day. But during these notes, I had no idea he was  
23 going to die.  
24 Q What did you think about him being on



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1 life support?

2 A I thought that they had gotten this

3 faint pulse back at the hospital and they were

4 just helping him breathe with the machines. I

5 didn't think that -- I didn't know he was brain

6 dead. I didn't know any details.

7 Q Did you ever go to the hospital where

8 Jordn was at?

9 A Yes.

10 Q Did you go the first day, September 8th,

11 2015?

12 A Yes.

13 Q And when did you go to the hospital?

14 A After I left Jordn's mother's house.

15 Q Do you remember -- well, let me ask you:

16 On September 8th, 2015, you went directly from

17 1019 Abington to 909 Milo White Drive; correct?

18 A Yes.

19 Q And that drive, I'm assuming, only took

20 a few -- 23 seconds?

21 A Yes.

22 Q Is that the first time that you spoke at

23 all with Wendy Tomblin, Jordn's mother, that day?

24 A That day?

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1 Q Yes.

2 A Yes.

3 Q And can you walk me through any

4 discussions or conversations you had with Wendy

5 Tomblin on September 8th, 2015?

6 And to begin, when you went to Wendy

7 Tomblin's home, Jordn had not yet left in an

8 ambulance; is that correct?

9 A I don't know if they had already taken

10 off or not, because I wanted to get the medical

11 information as fast as I could to give to the

12 squad. So I don't know if they had pulled away or

13 not. I can't remember.

14 Q When you say, "medical information,"

15 what medical information were you trying to get?

16 A What kind of mental, you know, status he

17 had, was he schizophrenic, bipolar, what the

18 mental psychotic breakdown she was talking about

19 was.

20 Q And what did she tell you about the

21 mental psychotic breakdown?

22 A Can I talk to discuss this? I don't

23 know what I'm supposed to say. Can I tell you

24 from the time I got there? Is that okay?

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1 Q Yeah. I'm talking -- yeah, when you got

2 to Wendy Tomblin's home, or Jordn Miller's home,

3 one of the things you wanted to find out is what's

4 the nature of this mental psychotic break;

5 correct?

6 A Right.

7 Q Why did you want to know that

8 information?

9 A Okay. I pulled up to the house and --

10 Q My question is: Why did you want to

11 know that information?

12 A Because I then knew who he was. I put

13 two and two together. And knowing that he had

14 prior drug -- illicit drug use. And I wanted to

15 then, as soon as I saw the house and put two and

16 two together, get the information from his mother

17 to the squad as fast as possible so they could

18 administer what medical attention they needed to,

19 to counteract whatever drugs he could possibly be

20 on in addition to maybe mental psychosis state as

21 well.

22 Q And did you recognize who Jordn was

23 until you pulled into that driveway and saw the

24 home?

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1 A I had no idea until I pulled into his

2 mother's house.

3 Q So you wanted -- you needed or wanted

4 that information about the nature of his mental or

5 psychotic break before you put together who Jordn

6 was?

7 A Yes.

8 Q So that was important information that

9 you thought you needed as an officer before

10 recognizing who Jordn was?

11 A Right.

12 Q Based on, one, the report that was

13 initially provided by Wendy Tomblin; correct?

14 A Yes.

15 Q Based on the information you had about

16 the psychotic break; correct?

17 A Yes.

18 Q And based on your own observations of

19 Jordn at the scene; correct?

20 A Yes.

21 Q So when you went to Wendy Tomblin's

22 home, what's the first -- where did you park?

23 A I don't remember where I parked.

24 Q Did you walk into the home?

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1 A Of course, I was in the house, yes.  
2 Q Okay.  
3 A I'm trying to think of where I was  
4 parked. I don't know. But like I said, the  
5 driveway is short, like they all are in that  
6 neighborhood. I can't remember if I was on the  
7 street, though, or in the driveway.  
8 Q And what door did you enter?  
9 A The front door.  
10 Q Where was -- did you knock or just open  
11 the door?  
12 A There were other officers -- I had  
13 Officer Linaburg there by then, but he had just  
14 gotten there. So it was more like I just walked  
15 into the house. He was already in there.  
16 Q How long in terms of time sequence, from  
17 the moment Jordn became unresponsive, were you  
18 able to get to Wendy Tomblin's home?  
19 A A couple minutes to five minutes, maybe.  
20 It was fairly quick.  
21 Q And when you got there, Officer Linaburg  
22 was already in the home?  
23 A Yes. He had just gotten there to my  
24 recollection.

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1 Q And was he there based on that earlier  
2 request you made over the radio?  
3 A I don't remember how I got him over to  
4 the house, if I asked him to go over there and see  
5 if you can figure out what's going on or what the  
6 case may be or to just secure the house until I  
7 could get there. But he was there briefly,  
8 obtained no information of any value, and I  
9 started asking questions when I got in the house.  
10 Q Have you ever discussed with Officer  
11 Linaburg how long he had been at the home before  
12 you got there?  
13 A No.  
14 Q And you said you got no information of  
15 any value?  
16 A Yes.  
17 Q What do you mean by that?  
18 A He was asking her questions, and the  
19 value at this point was that the psychotic break  
20 was also drug related, and he had no information  
21 on any drugs. She was telling him, no, he hadn't  
22 done any drugs and things like that, so he had no  
23 information like that.  
24 Q When is the first time that you as a

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1 police officer suspected that Jordn, based on his  
2 behavior or anything else, might have used drugs  
3 prior to your encounter with him?  
4 MR. LUTE: Objection.  
5 Go ahead.  
6 A As soon as I pulled up to his mother's  
7 house, I realized who he was.  
8 BY MR. HILL:  
9 Q Before that, had it ever crossed your  
10 mind that Jordn Miller, based on his behavior or  
11 the reports about his behavior, may have used  
12 drugs?  
13 A I didn't know. All I knew is that it  
14 was a psychotic break, like his mother said.  
15 Q But my question is just: As a police  
16 officer, you told me earlier people don't often  
17 come to you and have meth written on their  
18 forehead; correct?  
19 A Right.  
20 Q You've got to make some on-the-scene  
21 observations and determinations; right?  
22 A Yes.  
23 Q You have got to make some inferences  
24 based on what am I seeing; correct?

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1 A Yes.  
2 Q So in terms of whether or not Jordn,  
3 this individual, may have used drugs, is the first  
4 time that ever really came into your mind when you  
5 pulled into the driveway of his mother's home?  
6 A Yes.  
7 Q Had you ever discussed with any of your  
8 other -- your colleagues, Officer Holsopple or  
9 Officer Scherer, whether they ever suspected  
10 Jordn, based on his behavior or anything else, may  
11 have used drugs?  
12 A Other than typing this report, no. It  
13 was a mental call. I think we all just knew that.  
14 Q So when you first entered Jordn's home,  
15 where was his mother, Wendy Tomblin?  
16 A The house is kind of an open floor plan.  
17 The living room is in the front. She's in a  
18 wheelchair. And I can't remember if she was in  
19 the front area. It's a tiny house. Towards the  
20 living room or in the dining room, middle area,  
21 but she's in that vicinity.  
22 Q Was anyone else in the home other than  
23 officers?  
24 A I can't remember if the girlfriend was

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1 in that -- in the house at the time or not. I was  
2 talking to Ms. Tomblin.  
3 Q Some of the other reports of witnesses  
4 tend to go back to the scene where Jordn was.  
5 Some of the other witnesses stated that Jordn was,  
6 quote, foaming at the mouth. Did you ever notice  
7 anything like that?  
8 A No.  
9 Q Have you ever seen a person who was  
10 conscious foaming at the mouth?  
11 A Conscious?  
12 Q Uh-huh.  
13 A I've seen a lot of things. I mean,  
14 there's -- you know, people get the white stringy  
15 stuff and the stuff in the corners of their mouth.  
16 That could be considered foaming. I've seen them  
17 drool. So foaming? It just depends on what they  
18 were talking about. I don't know.  
19 Q One of the officers testified that when  
20 Jordn was rolled over to his side, on his side  
21 after he became unresponsive, his eyes were rolled  
22 back into his head. Is that consistent with your  
23 memory?  
24 A I do remember that in the investigative

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1 report, yes, that someone said something about his  
2 eyes being rolled back into his head.  
3 Q Is that consistent with your memory when  
4 Jordn was rolled over?  
5 A Yes.  
6 Q You said that Jordn -- when you radio --  
7 well, how long after you rolled Jordn over do you  
8 radio the fire department to step it up?  
9 MR. LUTE: Objection.  
10 Go ahead.  
11 A Right away. As soon as I noticed he  
12 wasn't responding, in fact, I told them to step it  
13 up.  
14 BY MR. HILL:  
15 Q And the reason you gave for EMS or the  
16 fire department to step it up is because, quote,  
17 "Jordn was barely breathing"?  
18 A His chest was still rising and falling,  
19 but he wasn't responding to anything we were  
20 saying.  
21 Q Do you remember saying anything about  
22 Jordn barely breathing to EMS?  
23 A Yes. By the time they got there, then,  
24 his pulse had slowed and he was barely breathing,

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1 by the time then the squad got there.  
2 Q Do you remember saying anything over the  
3 radio to EMS to step it up because Jordn was  
4 barely breathing?  
5 A Yes, unresponsive, something of that  
6 nature.  
7 Q And when you said "barely breathing,"  
8 what did you mean?  
9 A That he's not responding. And in my  
10 experience, when somebody goes limp, I mean,  
11 they're on a downhill slide.  
12 Q And I'm just --  
13 A He wasn't agitated and breathing heavy  
14 like he was before and mad or aggravated. He went  
15 limp.  
16 Q When you say he was breathing heavy  
17 before, you're talking about the time period where  
18 you were observing Jordn while he was handcuffed,  
19 but still conscious?  
20 A Yeah, the fighting part.  
21 Q How was he breathing heavy during this  
22 interaction with the police while you were there?  
23 A Just like anybody would if they were  
24 struggling with somebody else. They're, you know,

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1 breathing heavy and trying to get away, and you  
2 can hear them breathing.  
3 Q How could you hear him breathing?  
4 A With my ears.  
5 Q What did it sound like?  
6 A Breathing. Fast breathing. Agitated  
7 breathing. Breathing when we have to physically  
8 control somebody.  
9 Q You could hear his breathing while you  
10 were standing up straight?  
11 A When he would be struggling, I could  
12 hear him.  
13 Q You said it was fast breathing.  
14 A It was out-of-breath breathing where  
15 you're fighting.  
16 Q Like huffing?  
17 A Not Huffing, just fast breathing. Mad.  
18 Q Well, I just want to know what it  
19 sounded like, not his motivation. But can you --  
20 A Well, it wasn't like he was struggling  
21 for breath. He was just breathing fast because of  
22 the struggling and the kicking and the movements.  
23 Q I'm just trying to find out -- later on,  
24 when we look back at the transcript or watch the

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1 video -- what those sounds were that he was  
2 making.  
3 When you say he was breathing fast, you  
4 are telling me things about him being agitated or  
5 angry. I just want to know what the breathing  
6 sounded like that made you realize he was  
7 breathing -- as you said, breathing heavy?  
8 A Do you run? Do you jog?  
9 Q Not as much as I should.  
10 A It would be breathing like fast  
11 breathing like you're exercising. Not struggling  
12 for breath, not gasping for air, just you're  
13 wrestling with somebody and you know how you're  
14 breathing heavy. I think everything can attest to  
15 wrestling, at some point, for fun with somebody.  
16 Q And you were able to hear his breathing  
17 while you were standing up above him; correct?  
18 A When he was struggling.  
19 Q Well, did his breathing immediately go  
20 back to normal when he wasn't struggling?  
21 A Well, when he tried to get up, he was  
22 making more sounds than when he would lay back  
23 down. And his head was up, so I could hear him  
24 more.

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1 Q And that was just those two or so  
2 occasions where you just pushed his body down?  
3 A Right.  
4 Q So when you said "barely breathing," was  
5 anybody doing anything to check Jordn's  
6 respirations?  
7 MR. LUTE: Objection.  
8 You may answer.  
9 A Officer Scherer was checking his pulse.  
10 I was watching his belly rise and fall, his chest  
11 rise and fall. And Holsopple made sure that his  
12 head was in a position where he could breathe and,  
13 you know, just like you would when you would  
14 perform CPR.  
15 BY MR. HILL:  
16 Q No one performed CPR on Jordn; correct?  
17 A He was still breathing and had a pulse  
18 when the squad was coming up. It was barely, but  
19 then they started CPR when they got there.  
20 Q So in terms of checking Jordn's  
21 respiration, was it just watching -- watching his  
22 chest or stomach area?  
23 A I didn't put my head down next to his  
24 mouth. I watched his chest rise and fall. And

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1 Officer Scherer checked his pulse.  
2 Q Did anyone check to actually try to  
3 determine whether there was air coming out of his  
4 mouth or nose?  
5 A You mean by putting your hand down there  
6 or something or your face? No.  
7 Q Anything.  
8 By the time EMS got to the scene and  
9 approached Jordn, he had stopped breathing all  
10 together; correct?  
11 A I had saw -- as soon as the EMS was  
12 getting out of the squad, I wasn't noticing his  
13 chest rise anymore. It's like it was stopping  
14 right then, and I even yelled to the EMS  
15 personnel, "Hurry up, hurry up, he's not  
16 breathing," so that they would rush up faster than  
17 they were coming.  
18 Q And how much time was there between you  
19 telling the fire department to step it up and EMS  
20 arriving on scene?  
21 A I could hear the sirens when I said  
22 "step it up." They were across the street.  
23 Q So it sounds like they were there within  
24 a few seconds?

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1 A From then, yes.  
2 Q And from then, I mean, when you say  
3 "step it up"?  
4 A When I say "step it up," I can hear the  
5 sirens.  
6 Q So realistically, EMS got to the scene  
7 only really within seconds, then, of Jordn  
8 becoming unresponsive, because you contacted the  
9 EMS right away; correct?  
10 A Yes.  
11 Q When EMS got there, did you have any  
12 conversations with EMS before you left to go to  
13 Milo White Drive?  
14 A Just yelling at them to hurry.  
15 Q Anything else?  
16 A Just yelling at them.  
17 Q But I mean, when you were yelling at  
18 them, was it just to hurry?  
19 A Yeah. "Hurry up. He's not breathing.  
20 Hurry up. He's not breathing. Get up here."  
21 Q Nothing along the lines of here's what  
22 we saw Jordn doing, here's how he was acting,  
23 here's what we think it might be, nothing like  
24 that?



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<p style="text-align: right;">Page 301</p> <p>1 A I didn't.</p> <p>2 Q Did you overhear any of your fellow</p> <p>3 officers do that?</p> <p>4 A At that time, it was life-saving</p> <p>5 measures. We weren't really talking about what</p> <p>6 happened after that point.</p> <p>7 Q When you say "life-saving measures," do</p> <p>8 you mean EMS started doing CPR?</p> <p>9 A Yes. And trying to get him unhandcuffed</p> <p>10 and trying to cut his shirt off and stuff like</p> <p>11 that.</p> <p>12 Q When EMS got there, was Jordn then now</p> <p>13 rolled over all the way onto his back?</p> <p>14 A We had already unhandcuffed him, and he</p> <p>15 was laying on his back.</p> <p>16 Q Your portion of the interaction with</p> <p>17 Jordn sounds like it was limited to you looking at</p> <p>18 his head and torso, correct, basically?</p> <p>19 A Well, I could see his body.</p> <p>20 Q I mean, I know you said you could see</p> <p>21 polyester legs, but you didn't know whose legs</p> <p>22 they were, because you were focused on Jordn?</p> <p>23 A Up front, yeah. I could see him</p> <p>24 kicking, of course. I could see his whole body.</p>	<p style="text-align: right;">Page 303</p> <p>1 A I mean, he had confidence in us that we</p> <p>2 did the right thing. Other than that, no.</p> <p>3 Nothing important.</p> <p>4 BY MR. HILL:</p> <p>5 Q But I mean, whether he had confidence in</p> <p>6 you that you did the right thing, that's his state</p> <p>7 of mind. I mean in terms of any conversations</p> <p>8 that you had with Chief John Smith about the</p> <p>9 events on September 8th, 2015, have we discussed</p> <p>10 those conversations?</p> <p>11 MR. LUTE: Objection.</p> <p>12 Go ahead.</p> <p>13 A Other than him saying that the detective</p> <p>14 bureau was going to investigate it, we knew</p> <p>15 nothing until the very end. Even after the</p> <p>16 coroner's report, we didn't know what anything</p> <p>17 said in the investigative case.</p> <p>18 BY MR. HILL:</p> <p>19 Q And in terms of the detective bureau's</p> <p>20 investigation, you're talking about Detectives</p> <p>21 Lombardi or Troyer?</p> <p>22 A I'm only just now knowing that. When it</p> <p>23 was going on, I didn't know everybody that was</p> <p>24 involved.</p>
<p style="text-align: right;">Page 302</p> <p>1 Q And when you say "kicking," are you</p> <p>2 talking about his knee being on the ground and his</p> <p>3 calf and foot coming up?</p> <p>4 A Yeah, and trying to turn sideways and</p> <p>5 kick sideways, too.</p> <p>6 Q And was he still making these same</p> <p>7 noises while he was struggling on the ground</p> <p>8 throughout this period?</p> <p>9 A Yes.</p> <p>10 Q And it was during this period that you</p> <p>11 think you heard Jordn say something like "get</p> <p>12 off"?</p> <p>13 A Something to that effect.</p> <p>14 Q And that's the only intelligible word</p> <p>15 you heard Jordn say; correct?</p> <p>16 A Pretty much, yeah.</p> <p>17 Q When you say "pretty much," there's</p> <p>18 nothing else that you --</p> <p>19 A Not that I can remember, no.</p> <p>20 Q Have we discussed all of your</p> <p>21 conversations with Chief John Smith regarding the</p> <p>22 events on September 8th, 2015?</p> <p>23 MR. LUTE: Objection.</p> <p>24 Go ahead.</p>	<p style="text-align: right;">Page 304</p> <p>1 Q But in terms of -- when you say</p> <p>2 detectives bureau, did you mean detectives here at</p> <p>3 Springfield Township?</p> <p>4 A Yes.</p> <p>5 Q You didn't think there was some outside</p> <p>6 agency coming in?</p> <p>7 A No, no, no.</p> <p>8 Q Do you still have Exhibit 9 there, that</p> <p>9 incident report?</p> <p>10 A Yeah.</p> <p>11 Q Just so I understand the process,</p> <p>12 Officer Holsopple actually completed all the</p> <p>13 information that's contained on Exhibit 9; is that</p> <p>14 correct?</p> <p>15 A He got the information for the report.</p> <p>16 As far as who wrote it or if it was handwritten or</p> <p>17 typed, I can't remember.</p> <p>18 Q When you got -- when you signed off on</p> <p>19 the report -- and you did sign off on the report;</p> <p>20 correct?</p> <p>21 A Yes.</p> <p>22 Q Or the incident report.</p> <p>23 Was it already completed when you would</p> <p>24 have gotten it?</p>

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<p style="text-align: right;">Page 305</p> <p>1 A I mean, there would be times where if 2 there's something missing I might write it in or 3 correct something or do part of it for him, 4 because we're all working together to finish the 5 paperwork. So I don't know exactly if I -- if it 6 was handwritten or typed or if I wrote anything on 7 it or not. 8 Q Is there any way for you to be able to 9 identify whether or not you completed all of the 10 information on Exhibit 9 or what information 11 Officer Holsopple completed? 12 A Not that I'm aware of. Not at this 13 point. I don't remember. 14 Q So in terms of the approving officer, 15 then, sometimes you just write the report? 16 A I sometimes -- well, I'm pretty fast 17 with paperwork. So a lot of times when there's an 18 arrest or any other kind of case, I'll type it for 19 them or write it out for them if they give me the 20 information. So it's their information. I might 21 write it. So I don't know if that happened in 22 this case or not. I can't remember. I do that 23 all the time, though. 24 Q This incident report was created on</p>	<p style="text-align: right;">Page 307</p> <p>1 were just being -- reiterating what we already 2 knew about the Jeep and such. 3 Q So you said it was clear at the scene 4 what had happened? 5 A Right. 6 Q So what had -- I mean, Officer Holsopple 7 and Officer Scherer actually had the opportunity 8 to observe Jordn while he was in the car and how 9 he acted in the car; correct? 10 A Yes. 11 Q You did not? 12 A Correct. 13 Q So in terms of it was clear what 14 happened at the scene, what did Jordn do in 15 furtherance of attempting to steal a car other 16 than being in it? 17 A What I told you was at the scene. I 18 knew the information had come in from the 19 residents that he was trying to steal their Jeep. 20 That's all I know. I don't know how I got the 21 information. I don't know which avenue it was, 22 but I knew. So back at the office, everybody 23 knew. It wasn't anything new that I was learning. 24 I looked at Bubba's -- or Officer</p>
<p style="text-align: right;">Page 306</p> <p>1 September 8th, 2015? 2 A Yes. 3 Q So this would have been created after 4 you had returned back to the station at some 5 point? 6 A Yes. 7 Q And we've talked about everything you 8 did at 1019 Abington; correct? 9 A Yes. 10 Q You didn't go up and look inside the 11 car; right? 12 A No. 13 Q You didn't try to find out what if 14 anything Jordn damaged in the car; correct? 15 A No. 16 Q Did you -- before this incident report 17 was created, did you sit down with Officer 18 Holsopple and ask Officer Holsopple what he 19 observed Jordn doing in the car in terms of 20 attempts at stealing it? 21 A I think that they were just talking 22 about it when we got back to the office. It was 23 clear, like I said, at the scene what had 24 happened. So as far as back at the office, they</p>	<p style="text-align: right;">Page 308</p> <p>1 Scherer's leg down at the hospital. I went down 2 there to check on him, to check on Jordn, and then 3 didn't get back to the office until a while later, 4 so -- 5 Q But in terms of determining what Jordn 6 did in furtherance of stealing a car, you didn't 7 speak to any of the witnesses at the scene -- and 8 I mean like the homeowners; correct? 9 A I did not interview anybody. I left as 10 soon as I could. 11 Q So when you say that they had reported a 12 car stolen, you're referring to information that 13 you would have gotten over dispatch? 14 A Or those other avenues I told you 15 earlier. 16 Q Did you discuss with Officer Holsopple 17 what charges to bring -- or I guess you didn't 18 bring charges, but what charges to list on Exhibit 19 9? 20 A Like I said earlier, that's just common. 21 There's things that we do when we tase somebody 22 that we automatically charge, which is the 23 resisting. He had bit Officer Scherer, so that's 24 obviously felonious assault on a police officer.</p>

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<p>1 He had damaged parts of the car. That was the 2 criminal damaging. And the attempted theft on the 3 car. That was all common knowledge for the three 4 of us, so there wouldn't be a discussion. It 5 would just be on the report. 6 Q You said you always -- whenever -- some 7 things are standard. Whenever somebody is 8 tasered, they're charged with resisting; is that 9 fair? 10 A Yes. 11 Q What do you mean by that? 12 A Whenever somebody resists arrest and we 13 have to tase them, we have to charge them. 14 Q Is it the case, as far as you've been 15 here, that every time a person was tasered, they 16 were charged with resisting? 17 A Once they got tasered. 18 Q That's what I mean. You guys weren't 19 tasing people before you got Tasers; right? 20 A Correct. 21 Q So has it always been your experience 22 here that when a person has -- an electrical 23 conducted weapon has been used against a person, 24 it's basically automatically been that they get</p>	<p>1 A I would have turned it into data. 2 Q And where is data? 3 A That office that's up front. 4 Q So do you print it out and then hand it 5 in? 6 A Yes. 7 Q And this is the same process where they 8 retype it? 9 A It's always duplicate. 10 Q There are four potential offenses that 11 are listed in the incident report; correct? 12 A Yes. 13 Q Did you include all of the potentially 14 relevant offenses you thought could have been 15 charged against Jordn? 16 A Yes. 17 Q I want to talk just a little bit about 18 the struggle, okay? 19 You're aware that the body has a fight 20 or flight response; correct? 21 A I'm aware of it. 22 Q And you're aware that the human body 23 will attempt to fight to survive; correct? 24 A I would assume so.</p>
Page 310	Page 312
<p>1 charged with resisting? 2 A Whenever the policy or directive came 3 out is when that started, and I can't remember 4 when that happened. 5 Q What policy or directive? 6 A The Taser policy and/or directives that 7 may have been put up. At one point, I remember 8 specifically being given something that said if 9 you tase somebody, they need to be charged with 10 resisting or obstructing. 11 Q And that's still the directive here as 12 far as you know? 13 A Yes. 14 Q And my understanding is that no charges 15 were ever actually brought against Jordn? 16 A Correct. 17 Q Did you ever attempt to have charges 18 officially brought against Jordn? 19 A No, I didn't do any of the 20 investigation. 21 Q What did you do with this incident 22 report after it was concluded? 23 A After I checked it? 24 Q Uh-huh.</p>	<p>1 Q And it's just as the body can't 2 voluntarily drown itself; right? It will fight to 3 get air; correct? 4 A Yes. 5 Q If you hold a person's body down, a 6 person will naturally fight to move and get air; 7 correct? 8 A Everyone fights. 9 Q And that's one of the things that can 10 cause a person to struggle, though, is just the 11 fight to get air; correct? 12 A In some circumstances. 13 Q And that's something you have to be 14 cognizant of -- or you've got to be aware of as an 15 officer; correct? 16 A Yes. 17 Q That's essentially a fight to stay 18 alive; correct? 19 MR. LUTE: Objection. 20 You can answer if you know. 21 A I mean, that's redundant, I think. I 22 think that's a human body response. 23 BY MR. HILL: 24 Q I guess you're right. A fight to</p>

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<p style="text-align: right;">Page 313</p> <p>1 breathe is a fight to stay alive; is that fair?</p> <p>2 A Right.</p> <p>3 Q And if a person is being held down in</p> <p>4 prone restraint and has trouble breathing, you</p> <p>5 understand the body will automatically kick and</p> <p>6 fight to get air; correct?</p> <p>7 MR. LUTE: Objection.</p> <p>8 A No, I don't know that.</p> <p>9 BY MR. HILL:</p> <p>10 Q We stopped earlier.</p> <p>11 When you left to go to Akron City</p> <p>12 Hospital, was Wendy Tomblin still at her home?</p> <p>13 A I can't remember if I went to the office</p> <p>14 -- I think I went to the office real quick first</p> <p>15 to get a Workers' Comp packet for Officer Scherer</p> <p>16 at the hospital. So I think I came down here and</p> <p>17 then went straight to the hospital.</p> <p>18 As far as when I left Ms. Tomblin's</p> <p>19 house, I know that she was going to be escorted</p> <p>20 down to the office, but I don't know where she was</p> <p>21 when I got here. I was here. I never saw her. I</p> <p>22 grabbed the packet and ran to the hospital.</p> <p>23 Q I mean when you left Wendy Tomblin's</p> <p>24 home --</p>	<p style="text-align: right;">Page 315</p> <p>1 A To my knowledge, yes.</p> <p>2 Q Do you know if Wendy can drive?</p> <p>3 A I do not know.</p> <p>4 Q At the time you decided to go to the</p> <p>5 hospital to see Officer Scherer, you understood</p> <p>6 that Jordn Miller was at the hospital; correct?</p> <p>7 A Yes.</p> <p>8 Q Did you ever discuss with Wendy, while</p> <p>9 you were at her home, her going to the hospital to</p> <p>10 see Jordn?</p> <p>11 A I discussed what drugs he was taking to</p> <p>12 save his life and trying to get that out of her.</p> <p>13 Q My question was: Did you ever discuss</p> <p>14 with her, Wendy, going to the hospital to see</p> <p>15 Jordn?</p> <p>16 A Not to my knowledge. The detective was</p> <p>17 there, so --</p> <p>18 Q And you said that you were getting this</p> <p>19 information to save Jordn's life?</p> <p>20 A To try to save his life, yes.</p> <p>21 Q So at this point, while you were in her</p> <p>22 home, you understood that there was a chance that</p> <p>23 Jordn was going to die?</p> <p>24 A I knew that there was a chance.</p>
<p style="text-align: right;">Page 314</p> <p>1 A Yeah.</p> <p>2 Q -- was she still at her home when you</p> <p>3 left?</p> <p>4 A Yes, when I left.</p> <p>5 Q And at that point, it was your intention</p> <p>6 to go to the hospital; right?</p> <p>7 A Yes. I mean, I was going to get there.</p> <p>8 Q And you stopped here to get Workers'</p> <p>9 Comp forms?</p> <p>10 A Right. Once they got to the hospital, I</p> <p>11 left to come down and get a Workers' Comp packet.</p> <p>12 Q And was that for you or for Officer</p> <p>13 Scherer?</p> <p>14 A Officer Scherer.</p> <p>15 Q And did you bring that Workers' Comp</p> <p>16 packet to the hospital?</p> <p>17 A I would assume that I did. That's what</p> <p>18 I came here for.</p> <p>19 Q Now, Wendy Tomblin, you said, is in a</p> <p>20 wheelchair?</p> <p>21 A When I've seen her, she's sitting in a</p> <p>22 wheelchair.</p> <p>23 Q I mean, that day, she was in a</p> <p>24 wheelchair?</p>	<p style="text-align: right;">Page 316</p> <p>1 Q You knew that his circumstances were</p> <p>2 poor?</p> <p>3 A I've seen other people unresponsive,</p> <p>4 though, and live, so I didn't know. And it was a</p> <p>5 precautionary measure.</p> <p>6 Q So after you discussed this information</p> <p>7 with Jordn -- with Jordn's mother -- I'm sorry --</p> <p>8 about any drug use or anything else that may have</p> <p>9 happened, do you immediately call the hospital?</p> <p>10 A Well, I was in Jordn's bedroom for a</p> <p>11 minute, and I was talking to Officer Scherer over</p> <p>12 the radio the entire time -- he was in the</p> <p>13 squad -- to relay what Ms. Tomblin was saying.</p> <p>14 Q And was the information you were getting</p> <p>15 regarding any drug use coming from Jordn's mother</p> <p>16 or a girlfriend?</p> <p>17 A My answers that I got, I was talking</p> <p>18 directly to mother. I was -- I went back and</p> <p>19 forth to Jordn's room for a minute and would come</p> <p>20 back out and -- because at one point I saw a razor</p> <p>21 blade and powder, and I said what is that in</p> <p>22 there, because she didn't tell me anything like</p> <p>23 that. And she goes, "Well, I think he did meth</p> <p>24 two or three days ago." So that's when she</p>



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<p style="text-align: right;">Page 317</p> <p>1 started telling me about the drugs, because I 2 said, "He may die if you don't tell me what he 3 took," because she didn't tell me at first. I 4 said, "Look, we're not looking so that we can 5 charge him. I just need to know what he's taking 6 so we can save him. He's not breathing in the 7 ambulance. You have to cooperate." 8 Q So this powder that you're describing, 9 was anything ever tested? 10 A That, you would have to talk to the 11 detectives. 12 Q He didn't know. Blasdel didn't know. 13 A I didn't do anything in that 14 investigation. 15 Q So you just don't know? 16 A No. 17 Q And when you go -- you get the Workers' 18 Comp forms here, and then you go to Akron City 19 Hospital? 20 A Yes. 21 Q And what do you do when you get to Akron 22 city? 23 A I find Officer Scherer, asked him what's 24 going on. He says all I know at that time was</p>	<p style="text-align: right;">Page 319</p> <p>1 A No. 2 Q Did you ever talk to anyone about what 3 information was going to be provided to the 4 medical examiner? 5 A No. 6 Q In terms of that day, September 8th, 7 2015, my understanding is it was clear and nice 8 out, it was just very, very hot. Is that 9 consistent with your memory? 10 A I remember it being excessively hot, 11 yes. 12 Q There are a number of statements in 13 Chief Smith's report regarding discussions with 14 officers after -- at the station on the night of 15 September 8th, 2015, that reference discussions 16 about excited delirium and the officers thinking 17 that Jordn was suffering at some point from 18 excited delirium. 19 At any time that you were interacting 20 with Jordn Miller, did you believe that he was 21 experiencing or suffering from excited delirium? 22 A No. 23 Q As far as you know, has anyone ever 24 diagnosed Jordn with excited delirium?</p>
<p style="text-align: right;">Page 318</p> <p>1 that he wasn't breathing, they had no shockable 2 rhythm in the ambulance, and he didn't know the 3 status at that point. And he was getting checked 4 out for the bite wound. I stayed there for a 5 brief period of time, and then I came back here. 6 Q Did you see Jordn at all at the 7 hospital? 8 A I saw the room he was in, but I couldn't 9 really see anything that was going on. 10 Q What were -- were you able to see into 11 the room at all? 12 A I was just kind of adjacent to the room. 13 It was kind of like a glass wall, from what I can 14 remember, and there were people in gowns. And I 15 saw a couple people around them, but I was only 16 there for a second, because it was almost like, 17 oops, you know, I don't want to get in the way, 18 and then I left. 19 Q Was this in the ER or ICU or -- 20 A ER. 21 Q Did you talk to any of Jordn's doctors? 22 A No. 23 Q Did you ever talk to the medical 24 examiner in this case?</p>	<p style="text-align: right;">Page 320</p> <p>1 MR. LUTE: Objection. 2 You may answer. 3 A I have no idea what the investigation 4 provided. 5 BY MR. HILL: 6 Q You've encountered other individuals 7 with excited delirium in the past, you said; 8 correct? 9 A Yes. 10 Q What was different about Jordn that made 11 you think he didn't have excited delirium when you 12 were interacting with him? 13 MR. LUTE: Objection. 14 Go ahead. 15 A Because his mother said it was only a 16 psychotic break. She mentioned no drugs. There 17 was no reason to believe he was on drugs at that 18 time. 19 BY MR. HILL: 20 Q So if there was some reason, based on 21 Jordn's behavior, to suspect he was on drugs, 22 would that have been -- pushed you towards 23 believing he had excited delirium? 24 MR. LUTE: Objection.</p>

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1 Go ahead.

2 A If I knew on the scene or saw

3 paraphernalia or something, I would have obviously

4 put two and two together like I did when I pulled

5 into his house.

6 BY MR. HILL:

7 Q But with respect to those people we

8 talked about earlier, where you thought that they

9 had excited delirium and you called EMS, your

10 suspicions of them being on drugs was based on

11 your own observations of them; correct?

12 A Yes.

13 Q Anything else that was discussed between

14 you and Wendy Tomblin while you were at her home

15 on September 8th, 2015 that we haven't already

16 talked about?

17 A The only thing I can recall talking to

18 her about is: "Don't worry about him getting into

19 trouble. I need to know what drugs he's been on."

20 Q When you went into Jordn Miller's

21 bedroom, did Wendy follow you in there?

22 A No.

23 Q She remained out in the common area, I

24 think you called it, or open area?

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1 A Yes.

2 Q That's out in the family room, by the

3 kitchen, I think you said?

4 A Yeah, living room.

5 Q Is it like one room, kind of?

6 A I think there was a bed kind of there.

7 Q Was it a hospital bed?

8 A I don't know what it is exactly, if it's

9 a futon or --

10 Q Have we discussed all of your

11 conversations with anyone here at Springfield

12 Township regarding your involvement in the uses of

13 force with Jordn Miller?

14 MR. LUTE: Objection.

15 You may answer.

16 A No, not to my knowledge.

17 BY MR. HILL:

18 Q No, we haven't?

19 A The interaction only? Like no effects

20 afterward or anything; right?

21 Q What do you mean "effects afterward"?

22 A Like how the officers were doing and

23 talked to the chief about that or anything like

24 that?

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1 Q I know that there was -- let's just talk

2 about the uses of force or your interaction with

3 Jordn Miller only, not how it's affected you. But

4 in terms of your uses of force --

5 A Other than that night?

6 Q Right.

7 A No. And other than, you know, the three

8 of us -- we're confident in what we did wasn't

9 excessive and that, you know, it's a shame what

10 happened, and everybody feels bad, obviously, but

11 no, nothing other than that. We did everything

12 that we could.

13 Q So have we discussed all of your

14 conversations with Chief Smith about the events?

15 A That I can recall.

16 Q You said that there may have been some

17 discussions about how this has affected you.

18 A Yes.

19 Q Are you referring to emotionally how

20 it's affected you?

21 A Well, not necessarily me. I got there

22 after the fact, for the most part. But my other

23 two officers, yes.

24 Q How has this affected you emotionally?

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1 A I feel bad for everybody involved,

2 obviously. I feel super bad that those two and

3 myself had to continually get tested and blood

4 drawn for hepatitis. And that scare and -- you

5 know, Officer Scherer's married and has children.

6 He had to worry about hepatitis C. And he was

7 very upset about that. And Jordn passed away.

8 And it obviously was never intentional, and we did

9 everything that we possibly could. It's a bad

10 situation all the way around.

11 Q Fortunately, none of the three of you

12 ever got hepatitis C; correct?

13 A Not to my knowledge, not yet. It's a

14 continual testing, from what I understand.

15 Q Are you still getting tested?

16 A I'm not. I think Officer Scherer might

17 be. It was longer for him.

18 Q When was the last time you were tested?

19 A Mine might have been three or four blood

20 draws every three to four months maybe.

21 Q And where were you getting these?

22 A Cuyahoga Falls. There's a Workers' Comp

23 place in Cuyahoga Falls. You would have to ask

24 John Smith.

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1 Q Did you file a Workers' Comp claim in  
2 this case?  
3 A I think you have to when you're exposed  
4 like that to infectious disease.  
5 Q My question, though, is --  
6 A I think that's automatic. I'm not sure.  
7 I don't have paperwork on my desk about it. But  
8 if you're exposed to it, infectious disease, I  
9 would assume that's an automatic Workers' Comp  
10 claim.  
11 Q I'm just --  
12 A That's a department thing.  
13 Q I'm just asking based on what you  
14 understand as you sit here.  
15 Do you believe that a Workers' Comp  
16 claim was filed on your behalf?  
17 A I don't know on my behalf. I know there  
18 was on Officer Scherer's behalf because of the  
19 direct exposure.  
20 Q And when you went -- my understanding,  
21 based on the timeline, is the first time Officer  
22 Scherer heard anything about hepatitis C was after  
23 he had returned to the station on September 8th?  
24 A Yes.

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1 Q You took the Workers' Comp forms to  
2 Officer Scherer before that event; correct?  
3 A Before he come back to the office?  
4 Q Yes.  
5 A Yes.  
6 Q So when you took the Workers' Comp forms  
7 to Officer Scherer, it was relative to the bite;  
8 correct?  
9 A Yes.  
10 Q It was not about any kind of issue with  
11 hepatitis?  
12 A Not at that point, no.  
13 Q And had Officer Scherer asked you for  
14 those forms or indicated that he was going to file  
15 a Workers' Comp claim?  
16 A Any time an officer is injured and has  
17 to go to the hospital, one has to be filed.  
18 Q So my question is: Did Officer Scherer  
19 tell you that he was going or intending to file a  
20 Workers' Comp claim?  
21 A I'm the one that advised him to go to  
22 the hospital. One, to report back with Jordn's  
23 health; and two, to get checked out for the bite.  
24 I sent him there.

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1 Q Okay. So my question was just: Did  
2 Officer Scherer indicate to you or say to you that  
3 he was going to file a Workers' Comp claim?  
4 A No, because I had made him go there, and  
5 I brought him the Workers' Comp forms. I said,  
6 "Does the hospital have them there? Do you need  
7 me to bring them to you?" And he said, "Just  
8 bring them. I don't know if they have them here,"  
9 or "they don't have them here," something to that  
10 effect.  
11 Q And as far as you know, did Officer  
12 Scherer make a Worker's Comp claim in this case?  
13 A You have to.  
14 Q So yes?  
15 A Yes.  
16 Q In terms of -- my understanding is that  
17 sergeant -- or I'm sorry -- Officer Scherer  
18 returned that night, was walking around fine at  
19 the office?  
20 A He wasn't fine, no.  
21 Q He wasn't able to walk?  
22 A He could walk. Mentally, he wasn't  
23 fine.  
24 Q I'm talking about physically.

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1 A Physically, he would walk.  
2 Q In terms of any physical injury, is it  
3 your understanding it was a minor physical injury  
4 that's healed?  
5 MR. LUTE: Objection.  
6 Go ahead.  
7 A As far as -- I don't know what his  
8 medical record is.  
9 BY MR. HILL:  
10 Q As far as what you've observed?  
11 A He works.  
12 Q Does he appear to have been limited in  
13 any way?  
14 A Not that I know of.  
15 Q So at this point have we discussed all  
16 of your discussions or conversations with anyone  
17 here at Springfield Township about the incidents  
18 involving Jordn Miller?  
19 MR. LUTE: Objection.  
20 Go ahead.  
21 A As far as I can recall right now.  
22 BY MR. HILL:  
23 Q Are you aware of completing any  
24 documentation that we haven't reviewed during your

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1 deposition?  
2 MR. LUTE: Objection.  
3 Go ahead.  
4 BY MR. HILL:  
5 Q Other than the possible log?  
6 A Not that I'm aware of or that I can  
7 think of right now.  
8 Q Is there anything else you would like to say  
9 before we terminate the deposition?  
10 A No.  
11 Q I don't have any other questions for you, okay?  
12 MR. LUTE: She'll read.  
13 ---  
14 (Signature not waived.)  
15 ---  
16 And, thereupon, the deposition was adjourned at  
17 6:36 p.m.  
18 ---  
19  
20  
21  
22  
23  
24

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1 April 3, 2017  
2  
3 Dear Ms. Moore,  
4 You have chosen to read and sign your transcript.  
5 Please do not mark on the transcript. Any  
6 corrections/changes you may desire to make in your  
7 testimony should be typewritten or printed on the errata  
8 sheet at the end of testimony, giving the page number,  
9 line number and desired correction/change. After you have  
10 read the transcript, sign your name on the correction  
11 sheet and where indicated at the close of testimony before  
12 a notary public.  
13  
14 The rules of civil procedure allow thirty days for  
15 you to read and sign. Please return the signature page  
16 and errata sheet to Whitney Layne, 6723 Cooperstone Drive,  
17 Dublin, Ohio 43017 within that time. Failure to do so in  
18 the allotted time will result in your transcript being  
19 used as though read and signed by you.  
20  
21 Sincerely,  
22 \_\_\_\_\_  
23 Whitney Layne  
24 Professional Reporter

15 Cc:  
16 Michael Hill  
17 Gregory Beck  
18  
19  
20  
21  
22  
23  
24

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1 State of \_\_\_\_\_  
2 County of \_\_\_\_\_  
3 I, TERA DENISE MOORE, do hereby certify that I  
4 have read the foregoing transcript of my deposition given  
5 on March 20, 2017; that together with the correction page  
6 attached hereto noting changes in form or substance, if  
7 any, it is true and correct.  
8 \_\_\_\_\_  
9 TERA DENISE MOORE  
10 I do hereby certify that the foregoing transcript  
11 of the deposition of TERA DENISE MOORE was submitted to  
12 the witness for reading and signing; that after he had  
13 stated to the undersigned Notary Public that he had read  
14 and examined his deposition, he signed the same in my  
15 presence on the \_\_\_\_ day of \_\_\_\_\_, 2017.  
16  
17  
18 \_\_\_\_\_  
19 Notary Public  
20 My Commission Expires on:  
21 ---  
22  
23  
24

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1 TO THE REPORTER:  
2 I have read the entire transcript of my deposition taken  
3 on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, or the same has been  
4 read to me. I request that the following changes be  
5 entered upon the record for the reasons indicated.  
6 Page Line Correction and reason therefore  
7 \_\_\_\_\_  
8 \_\_\_\_\_  
9 \_\_\_\_\_  
10 \_\_\_\_\_  
11 \_\_\_\_\_  
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18 \_\_\_\_\_  
19 \_\_\_\_\_  
20 \_\_\_\_\_  
21 Date \_\_\_\_\_ Signature \_\_\_\_\_  
22  
23  
24



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1 CERTIFICATE

2 State of Ohio :

3 County of Franklin:

4 I, Whitney Layne, Notary Public in and for the  
5 State of Ohio, duly commissioned and qualified, certify  
6 that the within-named TERA DENISE MOORE was by me duly  
7 sworn to testify to the whole truth in the cause  
8 aforesaid; that the testimony was taken down by me in  
9 stenotype in the presence of said witness; afterwards  
10 transcribed upon a computer; that the foregoing is a true  
11 and correct transcript of the testimony given by said  
12 witness taken at the time and place in the foregoing  
13 caption specified.

14 IN WITNESS WHEREOF, I have set my hand and  
15 affixed my seal of office at Dublin, Ohio, on this 3rd day  
16 of April, 2017.

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Whitney Layne

Notary Public - State of Ohio

My Commission Expires: May 4, 2020.

- - -

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